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No. 83-5424

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

GLEN BURTON AKE,
Petitioner,

v.

THE STATE OF OKLAHOMA
Respondent.

BRIEF OF RESPONDENT

MICHAEL C. TURPEN*
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ATTORNEYS FOR RESPONDENT

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QUESTIONS PRESENTED

1. Whether, under the facts and circumstances of this case, the due process clause of the Fourteenth Amendment required the State to provide funds to allow the Petitioner to hire expert witnesses to assist in his defense.

2. Whether a State has the constitutional duty to provide funds to assist a criminal defendant discover mitigating evidence in a capital case.

3. Whether the facts of the present case present a situation where the Petitioner's claim that he was unable to comprehend the nature of the proceedings against him and to assist in his defense due to the medication prescribed for him is supported by the record.

TABLE OF CONTENTS

	<u>Page</u>
OPINION BELOW.	1
JURISDICTION	1
CONSTITUTIONAL AND STATU- TORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE.	2
SUMMARY OF ARGUMENT.	15

PROPOSITION I

WHERE AKE HAD NO HISTORY OF MENTAL ILLNESS, GAVE A FORTY-FOUR PAGE DETAILED ACCOUNT OF THE MURDERS HE COMMITTED, FOUR MONTHS PASSED FROM THE TIME OF THE MURDERS UNTIL THE FIRST INDICATION OF MENTAL ILLNESS APPEARED, AND AKE'S ATTORNEYS DECLINED TO CALL AS WITNESSES ANY LAY PERSONS TO TESTIFY AS TO AKE'S MENTAL CONDITION AT THE TIME OF THE CRIME DESPITE THE AVAILABILITY OF A NUMBER OF SUCH WITNESSES, THE STATE WAS NOT CONSTITUTIONALLY REQUIRED TO ALLOT FUNDS FOR THE PAYMENT OF EXPERT WITNESSES ON THE ISSUE OF INSANITY AT THE TIME OF THE COMMISSION OF THE CRIME. . . . 19

TABLE OF CONTENTS

Page

PROPOSITION II

IN A CAPITAL CASE, THE STATE HAS NO DUTY TO ASSIST A CRIMINAL DEFENDANT DISCOVER MITIGATING EVIDENCE; IN THE PRESENT CASE AKE WAS FREE TO INTRODUCE ANY MITIGATING EVIDENCE AND THEREFORE THE CONSTITUTIONAL REQUIREMENTS OF LOCKETT AND EDDINGS WERE COMPLIED WITH . . 49

PROPOSITION III

WHERE AKE'S ATTORNEY WITHDREW HIS MOTION FOR SANITY TRIAL TO DETERMINE PRESENT SANITY AND THUS DID NOT AVAIL HIMSELF OF THE PROCEDURE IN OKLAHOMA FOR DETERMINING COMPETENCY TO STAND TRIAL, HE CANNOT NOW CONTEND THAT HE WAS UNABLE TO COMPREHEND THE PROCEEDINGS AGAINST HIM. 54

CONCLUSION 57

APPENDIX A 1a

TABLE OF AUTHORITIESPage

Cases:

<u>Beck v. State</u> , 626 P.2d 327 (Okl.Cr. 1981)	55
<u>Bradbury v. Wainwright</u> , 658 F.2d 1083 (5th Cir. 1981) . . .	41
<u>Brinks v. Alabama</u> , 465 F.2d 446 (5th Cir. 1972)	42
<u>Burger v. Zant</u> , 718 F.2d 979 (10th Cir. 1983)	39
<u>Bush v. McCollum</u> , 231 F.Supp. 560 (N.D. Tex. 1964), aff'd 344 F.2d 672 (5th Cir. 1965) . .	42
<u>Christian v. United States</u> , 398 F.2d 517 (10th Cir. 1968)	39
<u>Coker v. Georgia</u> , 433 U.S. 584 (1977)	36
<u>Cox v. State</u> , 644 P.2d 1077 (Okl.Cr. 1982)	55
<u>Donnelly v. DeChristoforo</u> , 416 U.S. 637 (1974)	45
<u>Drope v. Missouri</u> , 420 U.S. 162 (1975)	18, 34, 55
<u>Dusky v. United States</u> , 362 U.S. 402 (1960)	34

TABLE OF AUTHORITIESPage

Cases:

<u>Eads v. State</u> , 460 P.2d 1370 (Okl.Cr. 1982)	48
<u>Eddings v. Oklahoma</u> , 455 U.S. 104 (1982)	51
<u>Engle v. Isaac</u> , 456 U.S. 107 (1982).	48
<u>Estelle v. Williams</u> , 425 U.S. 501 (1976)	48,49
<u>Faretta v. California</u> , 422 U.S. 806 (1975)	34
<u>Hawkins v. State</u> , 569 P.2d 490 (Okl.Cr. 1977).	48
<u>High v. State</u> , 401 P.2d 189 (Okl.Cr. 1965).	28
<u>Hintz v. Beto</u> , 379 F.2d 937 (5th Cir. 1967)	43
<u>Hoback v. Alabama</u> , 607 F.2d 680 (5th Cir. 1979)	41
<u>Hurley v. State</u> , 416 P.2d 967 (Okl.Cr. 1966).	48
<u>Leland v. Oregon</u> , 343 U.S. 790 (1952).	35,36
<u>Little v. Streater</u> , 452 U.S. 1 (1981).	37,45

TABLE OF AUTHORITIESPage

Cases:

<u>Lockett v. Ohio</u> , 438 U.S. 586 (1978).	51
<u>Matlock v. Rose</u> , 731 F.2d 1236 (6th Cir. 1984). . . .	40, 45, 47
<u>Matthews v. Eldridge</u> , 424 U.S. 319 (1976)	47
<u>Moore v. Zant</u> , 722 F.2d 648 (11th Cir. 1983).	40
<u>Patterson v. New York</u> , 432 U.S. 197 (1977)	36
<u>Payne v. Thompson</u> , 622 F.2d 254 (6th Cir. 1980)	41
<u>Pedrero v. Wainwright</u> , 590 F.2d 1383 (5th Cir. 1979) .	41, 42, 43
<u>Powell v. Texas</u> , 392 U.S. 514 (1968).	35
<u>Proctor v. Harris</u> , 413 F.2d 383 (D.C. Cir. 1969).	39
<u>Richards v. Solem</u> , 693 F.2d 760 (8th Cir. 1982)	52
<u>Rivera v. Delaware</u> , 429 U.S. 877 (1976).	36
<u>Rogers v. State</u> , 634 P.2d 743 (Okla. Cr. 1981).	47

TABLE OF AUTHORITIESPage

Cases:

<u>Sandstrom v. Montana</u> , 442 U.S. 510 (1979)	38
<u>Satterfield v. Zahradnick</u> , 572 F.2d 443 (4th Cir. 1978)	41
<u>Solem v. Stumes</u> , 104 S.Ct. 1338 (1984)	46
<u>Strong v. State</u> , 547 P.2d 383 (Okl.Cr. 1976).	48
<u>United States v. Decoster</u> , 624 F.2d 196 (D.C. Cir. 1976)	39
<u>United States ex rel. Smith v. Baldi</u> , 344 U.S. 561 (1953) .	34
<u>Washington v. Texas</u> , 388 U.S. 14 (1967).	33
<u>Watson v. Patterson</u> , 358 F.2d 297 (10th Cir. 1966) . . .	39
<u>Westbrook v. Zant</u> , 704 F.2d 1487 (11th Cir. 1983)	40, 53
<u>Wilson v. State</u> , 568 P.2d 1279 (Okl.Cr. 1977)	28

TABLE OF AUTHORITIESPage

Statutes:

Federal

18 U.S.C. § 3306A	39
28 U.S.C. § 1257(3)	1

State

Okla. Stat. Ann., tit. 21, § 652 (West Supp. 1979)	2
Okla. Stat. Ann., tit. 21, § 701.7 (West Supp. 1979)	2
Okla. Stat. Ann., tit. 21, § 701.10.	51
Okla. Stat. Ann., tit. 21, § 701.12 (West Supp. 1979).	3
Okla. Stat. Ann., tit. 21, § 1171 (West 1979).	11
Okla. Stat. Ann., tit. 22, § 715	33
Okla. Stat. Ann., tit. 22, § 718	33
Okla. Stat. Ann., tit. 22, § 723	33
Okla. Stat. Ann., tit. 22, §§ 1161 et seq. (West Supp. 1971)	35,55

TABLE OF AUTHORITIESPage

Statutes:

Okla. Stat. Ann., tit. 22, §§ 1175.1 et seq. (West Supp. 1983)	35
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Other Author-
ties Cited:

U.S. Const., Fourteenth Amendment	2
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October Term, 1983

GLEN BURTON AKE,
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v.

THE STATE OF OKLAHOMA
Respondent.

BRIEF OF RESPONDENT

OPINION BELOW

The Opinion of the Oklahoma Court
of Criminal Appeals is reported at 663
P.2d 1 (Ok1.Cr. 1983).

JURISDICTION

This Court's jurisdiction is in-
voked pursuant to 28 U.S.C. § 1257(3).

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides in part:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

STATEMENT OF THE CASE

Glen Burton Ake, a/k/a Johnny Vandover (hereinafter referred to as "Ake") was convicted of two counts of Murder in the First Degree, Okla. Stat. Ann. tit. 21, § 701.7 (West Supp. 1979) and two counts of Shooting With Intent to Kill, Okla. Stat. Ann. tit. 21, § 652 (West Supp. 1979), in the Dis-

trict Court of Canadian County, State of Oklahoma.

Ake was convicted by a jury which also found the existence of three aggravating circumstances.¹ Ake received a death sentence from the jury for each of the two murders for which he was convicted and a sentence of five hundred years for each of the convictions for Shooting With Intent to Kill.

The facts which were presented to the jury reveal that on October 15, 1979, Ake and his co-defendant, Steven Keith Hatch, quit their jobs on an oil

¹ The jury found that (1) the murder was especially heinous, atrocious or cruel; (2) the murders were committed to avoid or prevent a lawful arrest or prosecution; and (3) a probability existed that Ake would commit criminal acts of violence that would constitute a continuing threat to society. See Okla. Stat. Ann., tit. 21, § 701.12 (West Supp. 1979).

field rig (Tr. 386),² borrowed a car from a friend and employer, Dwayne Lucas (Tr. 386) and went looking for a location to burglarize (A. 4a)³

Ake and Hatch finally decided upon a house which was that of Reverend Richard Douglass, his wife Marilyn, and their two children, Brooks, age sixteen, and Leslie, age twelve. The Douglasses had recently returned from Brazil where they had performed missionary work (Tr. 446).

Ake obtained entry into the house using the ruse of attempting to locate the residence of another person in the area (Tr. 430-432). While Ake was in

² "Tr." refers to the trial transcript.

³ "A" refers to the confession of Ake given on November 23, 1979 and signed on November 26, 1979 and which is attached hereto as "Appendix A."

the house, Hatch entered with a shotgun and Ake pulled out a handgun which he had been concealing in his belt, held it in the face of the boy, Brooks, and said that if he tried to do anything, he would blow his head off (Tr. 434).

The boy went to get his father, who was in the bedroom (Tr. 434). The father stepped momentarily into the bathroom and Ake stuck his handgun in Reverend Douglass' stomach, and asked him what he was doing (Tr. 435). Ake pulled him out of the bathroom and checked his pockets (Tr. 435). Ake then took Reverend Douglass back into the bedroom and asked him for his money and wallet (Tr. 435). During this time Hatch had the shotgun on Mrs. Douglass, the boy and the girl (Tr. 435).

Ake then took Brooks (the boy) to his bedroom and had him obtain money

from his wallet (Tr. 436). Ake then took Mrs. Douglass to her room for the same purpose (Tr. 436).

The Douglass family members were forced to lie on their stomachs on the living room floor and were bound with rope and gagged with curtain sash (Tr. 437). Ake tied them up (Tr. 437), began ransacking the house, searching for money (Tr. 283,437). Ake took the Douglass' twelve year old daughter, Leslie, around the house looking for money and then took her into the bedroom and forced her to undress (Tr. 419-420,437). He and Hatch then unsuccessfully attempted to rape the girl after putting suntan lotion on their penises to use as a lubricant (Tr. 420,425). Mrs. Douglass wept as she heard her daughter crying during the rape attempts (Tr. 438).

During most of this time Hatch guarded the Douglasses with the shotgun, threatening them if they moved (Tr. 438-439). Ake and Leslie (the girl) returned to the living room and she also was tied up (Tr. 439). The heads of Reverend Douglass, his wife, and the boy were covered with shirts (Tr. 421-438). Ake remarked to the family that he liked to shoot people. Ake asked them if they had seen the car and the Douglasses stated they had not (Tr. 439). He kept talking about shooting people and how there was nothing wrong with it and wondered whether or not he should shoot them (Tr. 440). He then sent Hatch outside to start the car (Tr. 440). After Hatch left, Ake asked "for four hours," to which the family agreed (Tr. 422, 427, 440). Mrs. Douglass pleaded with Ake not to shoot them (Tr. 440).

Ake said "I'm in a bad position. I don't want to shoot you all but, . . ." (Tr. 441) and "I'm sorry but dead men don't talk" (A. 39a). When Mrs. Douglass started to say something Ake shot all four family members in the back with the handgun and left (Tr. 422, 441).

Reverend Douglass and his wife died from the gunshot wounds as their son attempted to untie them (Tr. 422-423, 442). Partial strangulation was also a contributing cause of death to Reverend Douglass (Tr. 325,332). The children survived the gunshot wounds to the back and eventually freed themselves and fled to a neighbor's house.

After the shooting Ake and Hatch, fled to Arkansas, Tennessee, Louisiana, Texas, California, Nevada, Utah, Wyoming and Colorado (A. 6a-11a). While in Louisiana, Ake and Hatch showed some

jewelry to a woman who traveled with them named Virginia Keefe. Ake told her that they had gotten it from some people in Oklahoma that they had killed (Tr. 456-457, 460). Ms. Keefe at one time wore some of this jewelry (Tr. 456), including Mrs. Douglass' wedding ring, which was seized from Hatch when he was arrested (Tr. 411, 445-446, 460). Ms. Keefe also observed a credit card belonging to Mrs. Douglass in the possession of Ake and Hatch (Tr. 45). Ms. Keefe later used the card herself (Tr. 459). She said that Ake and Hatch had also both worn the jewelry (Tr. 459-460). Ms. Keefe testified that Ake had telephoned his sister and that she had advised him that the Douglass children had survived (Tr. 457). Ms. Keefe stated that Ake became "scared" upon learning this news (Tr. 457).

Ake and Hatch were arrested in Colorado on November 20, 1979. Upon being booked into the jail, the ring belonging to Mrs. Douglass was found on Hatch and the credit card belonging to Mrs. Douglass was found on Ake (Tr. 410-412).

Ake was returned to Oklahoma and placed in the El Reno city jail. Three days after his arrest, on November 23, 1979, he advised the jail dispatcher, LuAnn Ramming, that he wished to speak with the Sheriff and the Oklahoma State Bureau of Investigation (Tr. 504-506). When the Sheriff arrived, Ake stated that he had some things he wanted to "get off his chest" (Tr. 506,512).

Ake gave the officers a forty-four page statement which was taped, subsequently reduced to writing, corrected, and signed by Ake three days later (Tr.

552-525). This statement was introduced at trial as Exhibit No. 68 (Tr. 546-549; Appendix "A" infra). In this statement Ake confessed to the shooting of the Douglass family.

Ake was arraigned on November 23, 1979 and on December 11, 1979 he and Hatch again appeared before the court. At that time Hatch's attorney requested and obtained an order transferring Hatch to the state mental hospital for a sixty day observation period to determine competency to stand trial.⁴ Ake was present in court with his attorney, but no such request was made on his behalf. (December 11, 1979 Transcript, p. 2-4).

On January 21, 1980, the preliminary hearing for both Ake and Hatch was held. Again no objections to the pro-

⁴ Okla. Stat. Ann. tit. 21 § 1171 (West 1971) provided that if a doubt

ceedings or motions relating to Ake's competency were made. Ake and Hatch were bound over for trial at the conclusion of that hearing.

On February 14, 1980 Ake appeared for formal arraignment. Ake became disruptive during that time. Subsequently, on February 20, 1980 the court ordered Dr. William Allen, a psychiatrist in private practice, to examine Ake to determine his competency to stand trial. On April 10, 1980 a competency hearing was held and at the conclusion of such the court found that Ake was a mentally ill person in need of care and treatment and he was transferred to the state mental hospital, Eastern State Hospital.

4 (Continued) arose as to the sanity of a criminal defendant, he could be committed to the state hospital for a period not to exceed sixty days.

On May 22, 1980 Dr. R.D. Garcia, Chief Forensic Psychiatrist for Eastern State Hospital, sent the court a letter advising that Ake was now competent to stand trial and recommended that he be maintained on 200 milligrams of Thorazine, three times a day. Ake was returned to Canadian County and on June 23, 1980 the jury trial for Ake was commenced. Hatch was tried in a separate proceeding.

At the time of trial Ake's attorney withdrew a pending Motion for Jury Trial on Present Sanity (Tr. 2-4). Outside of the presence of the jury the State produced testimony of a cellmate of Ake, who testified that Ake had told him that he was going to try to "play crazy" (Tr. 15).

At trial both Douglass children testified as to the events surrounding

the terrorizing of their family and the murder of their parents by Ake. Ake was identified in court by both as the person who murdered their parents (Tr. 427,448) and the boy identified his parents' jewelry (Tr. 445-446) and credit card (Tr. 446-447) which were in Ake and Hatch's possession when arrested. The State also introduced the signed confession in which Ake admitted to the shooting of the Douglasses. (State's Exhibit No. 68; Appendix A, *infra*).

Dwayne Lucas, Ake's employer, and Virginia Keefe, their traveling companion, testified concerning their association with Ake and Hatch, which included Ms. Keefe's testimony concerning Ake's admission to her about the killings and his telephone call to his sister (Tr. 456-460).

The State also introduced evidence that Ake's palm print, which had been lifted from the telephone receiver in the Douglass' bedroom (Tr. 398-404). Ballistics linked the bullet found at a place where Ake and Hatch had been target shooting on the morning of the murders with bullets found at the Douglass residence (Tr. 351-367, 384-386, 394-397).

The only evidence presented by Ake in his defense was that of three doctors (two psychiatrists and a physician) concerning his mental condition months after the murders.

SUMMARY OF ARGUMENT

The facts of the present case do not present a situation in which the due process rights of a defendant have been violated.

The facts reveal an overwhelming amount of evidence against Ake. Shortly after his arrest, which occurred approximately five weeks after the murder, Ake gave law enforcement officers a forty-four page taped confession which was reduced to writing and then corrected and signed by Ake three days later.

More than four months passed after the murders before any claim was made concerning his mental condition. Approximately two weeks after his arrest Ake and his attorney appeared in court and watched Ake's co-defendant obtain an Order transferring him to the State mental hospital for observation. Ake's attorney made no such motion and over a month later the preliminary hearing was held and Ake was bound over without any allegation being made concerning Ake's mental state.

At trial Ake's attorney declined to call any of Ake's family, friends, co-workers or associates regarding the issue of his sanity at the time of the murders even though such testimony is admissible in Oklahoma. Three doctors conducted examinations concerning his competency to stand trial and Ake's motion for jury trial on the issue of present insanity was withdrawn at the time of trial. Furthermore, Ake had no history of mental illness.

Ake's confession set forth in lucid detail the facts relating to the Douglass' murders. The confession also contained explicit accounts of Ake's activities on the day of the murders and his subsequent flight following such. All witnesses to the confession testified concerning his rational demeanor

and mental status at the time the confession was given.

There was no showing that Ake had possessed any mental illness at the time of the murders. The first sign of any mental illness occurred four months after the murders, subsequent to his preliminary hearing, and Ake received prompt psychiatric examination and treatment with regard to his competency to stand trial. The constitutional mandates of Drope v. Missouri, 420 U.S. 162 (1975) were therefore complied with.

Under the facts of the case the Constitution does not require the State to provide expert witnesses with regard to Ake's mental status at the time of the commission of the murders.

ARGUMENTPROPOSITION I

WHERE AKE HAD NO HISTORY OF MENTAL ILLNESS, GAVE A FORTY-FOUR PAGE DETAILED ACCOUNT OF THE MURDERS HE COMMITTED, FOUR MONTHS PASSED FROM THE TIME OF THE MURDERS UNTIL THE FIRST INDICATION OF MENTAL ILLNESS APPEARED, AND AKE'S ATTORNEYS DECLINED TO CALL AS WITNESSES ANY LAY PERSONS TO TESTIFY AS TO AKE'S MENTAL CONDITION AT THE TIME OF THE CRIME DESPITE THE AVAILABILITY OF A NUMBER OF SUCH WITNESSES, THE STATE WAS NOT CONSTITUTIONALLY REQUIRED TO ALLOT FUNDS FOR THE PAYMENT OF EXPERT WITNESSES ON THE ISSUE OF INSANITY AT THE TIME OF THE COMMISSION OF THE CRIME.

In his brief Ake asserts that the United States Constitution required the State of Oklahoma to provide funds for "reasonably necessary expert assistance." Ake argues that the State is constitutionally required to furnish expert assistance not only in the form of expert witnesses at trial but also with regard to trial preparation. The State contends that if any such previ-

ously undiscovered constitutional right exists, the facts in the present case do not justify the invocation of such a right on behalf of the Petitioner Glen Burton Ake.

The facts of the case, as more fully set forth in the transcript and Ake's confession, reveal a calculated and savage terrorizing of the Douglass family. Nothing in the conduct of the crime itself, apart from a certain amount of consumption of alcohol and drugs by Ake and his companion Hatch, give the slightest indication that this was anything other than a premeditated robbery-murder. From the time of the ruse used by Ake to gain entry into the Douglass' home, the coordination of the simultaneous production of weapons by the Ake and Hatch, the systematic search of the Douglass' home by Ake, the tear-

ing out of all three telephones in the residence, the binding and gagging of the victims, to the ingenuity of Ake in applying suntan lotion to his penis in order to facilitate the rape of the twelve year old Leslie, Ake exhibited no signs of mental illness.

Next, on November 23, 1979, after being arrested after traveling through nine states and using an assumed name, Ake gave law enforcement officers a lucid forty-four page confession which gives a detailed chronology of the robbery, murders and subsequent flight. Ake was even able to remember the order in which he shot the Douglasses (A. 39a).

The statement corroborates in detail the accounts given by other witnesses. It recounts the travels of Ake and Hatch from state to state. A

notable exception to the account given by witnesses is the refusal of Ake to admit the attempted rape of the twelve year old girl (A. 34a), which may reflect recognition on his part of the harsh treatment reputed to be imposed upon child molesters by fellow prison inmates. The recitation of the events referred to refutes any claim that Ake was delusional at the time of the murders. Furthermore, no statement in the confession reflects on his mental competency.

After Ake gave the taped statement to the officers on November 23, three days later the statement was reduced to writing, reviewed, corrected and signed by the Petitioner. Review of the written statement reveals the corrections made by Ake, a fact testified to by

Sheriff Stedman (Tr. 547-548).⁵

Agent Shields of Oklahoma State Bureau of Investigation testified that when Ake gave his statement he was very calm and communicated well (Tr. 523). Sheriff Stedman, who was also present when the confession was given, testified that Ake was responsive, coherent and alert (Tr. 536). The confession was given after Ake himself notified the jailer that he wished to see the Sheriff and Oklahoma State Bureau of Investigation (Tr. 506).

Since the statement was given five weeks after the murders, this too should

⁵ Obviously, the reproduction of the statement in Appendix A, infra, does not contain the handwritten corrections made by Ake. Certain blank pages and spaces appear throughout the statement due to the fact that part of it was excised to delete references to other crimes (Tr. 479-482, 502).

disprove Ake's claim of insanity at the time of the murders in view of his detailed recollection of such.

Furthermore, testimony at trial revealed that, when in Louisiana, Ake made a statement to Virginia Keefe that he had obtained the jewelry that he and Hatch showed her from some people in Oklahoma they had killed (Tr. 456-457, 460). According to Ms. Keefe, Ake also telephoned his sister and became "scared" when told that "the two kids had lived" (Tr. 457). When arrested in Colorado, Ake had the credit card of Mrs. Douglass in his possession (Tr. 411). This card and some of Mrs. Douglass' jewelry had been given to Ms. Keefe to use and wear at certain times after the murders (Tr. 458-461). Ms. Keefe also testified that Ake eventually told her that his name was not "Skip

Thompson" as he had previously told her (Tr. 452) but Glen Ake (Tr. 457).

After the confession was given on November 23 and 26, 1979, Ake and his attorney appeared before the Court on December 11, 1979. These proceedings are set forth in a transcript which is a part of the record. At that hearing Hatch's attorney obtained an order committing Hatch to a State Mental hospital for observation (p. 4). The Court continued the preliminary hearing from December 17, 1979 until January 21, 1980 to allow Hatch to undergo observation (p. 3-4).

The record reveals that no attempt was made by Ake's attorney to secure a similar mental examination for his client.

Thereafter, on January 21, 1980, the preliminary hearing for Ake and

Hatch was held. The preliminary hearing was completed and Ake and Hatch were bound over for trial. The transcript of this hearing also reveals that no attempt of any kind was made to secure any mental examination of Ake and no objection to the proceeding was made on the basis of his mental condition.

On February 14, 1980 Ake was formally arraigned. On February 20, 1980 the court, in response to Ake's behavior at arraignment and other incidents of bizarre behavior which had been reported to the court, ordered Dr. William Allen to examine Ake to determine whether an extended period of observation was required.

Therefore, from the time of his arrest on November 20, 1979, until February 14, 1980, there was no indication of Ake having any mental problem. At trial

Dr. Garcia testified that Ake had no history of mental illness (Tr. 599).⁶

Furthermore, on the day of trial, Ake's attorney withdrew a Motion for Sanity Trial to Determine Present Sanity. At that time the State also produced a cellmate of Ake's who testified that Ake told him that he was going to "play crazy" (Tr. 15). The cellmate also stated that Ake told him he had learned what symptoms to use during his stay at the "nut house" (Tr. 20-23), that he was going to be some kind of an angel (Tr. 20) and made the comment "I'm messing with their minds" (Tr. 20). The cellmate also stated that:

⁶ The court minute of February 20, 1980 reflects that the judge before whom Ake appeared on February 14, 1980, felt that Ake's behavior "may very well be staged for the benefit of the Court, . . ." (R. 20).

"He is sane. He knows what he is doing. He is smart." (Tr. 22).

Ake contends that in this case the United States Constitution requires that the State provide funds for expert psychiatric assistance. It is significant, however, that Ake made no attempt to call any lay witnesses who had knowledge of his mental condition at the time of the murders.

In Oklahoma a lay witness may give his or her opinion as to insanity of the defendant. In High v. State, 401 P.2d 189, 195 (Okla. Cr. 1965) the Court of Criminal Appeals held:

"In Oklahoma, a nonexpert witness may give his opinion as to whether or not a man is insane where it is shown that such witness has had sufficient opportunity for observation of the accused."

See also Wilson v. State, 568 P.2d 1279, 1281 (Okla. Cr. 1977) (" . . . a nonexpert may, upon a showing of sufficient oppor-

tunity to observe, give his opinion as to the defendant's sanity; . . .").

In the present case a number of lay witnesses could have testified as to Ake's sanity. Two such witnesses testified at trial: Dwayne Lucas (Tr. 382-391), for whom Ake worked as a driller, took to work on the morning of the murders, had dinner with on that day, rode around with and then observed Hatch and Ake target practice; and Virginia Keefe, who had known Ake since February or March of 1979 (Tr. 452-453), and who traveled with him from Florida to Louisiana, Texas, Wyoming after the murders and wore the victim's jewelry and used Mrs. Douglass' credit card (Tr. 455-457).⁷

⁷ Ms. Keefe also testified concerning her observation that Ake was

Ms. Keefe was asked no questions by defense concerning her knowledge of Ake's mental status at any time. With regard to Dwayne Lucas, in response to questions by Ake's attorney, Mr. Lucas testified that Ake always came to work promptly (Tr. 390), and that on the day of the murders Ake worked as hard as anyone, and that he did not notice anything strange about him (Tr. 390-391). Lucas stated that at that time he considered Ake to be a friend (Tr. 391), and that he loaned him his car on the day of the murders (Tr. 386, 390-391), a fact corroborated by Ake in his confession (A. 3a).

Ake also failed to call other witnesses who would have had knowledge of

7 (Continued) "scared" when he called his sister and found that the Douglass' children were alive (Tr. 457).

his mental condition at the time of the murders, such as his co-workers, any other acquaintances, or the sister referred to by Virginia Keefe from whom Ake discovered that the Douglass children were alive (Tr. 457).

Additionally, Ake's mother was present and spoke to the Court during the April 10, 1980 competency hearing (p. 12-13). The mother also mentioned that Ake was married (p. 13). Yet neither of those witnesses were called by Ake to testify as to his mental condition at the time of the murders.

Ake's confession also contains references to other persons who could have testified as to his insanity at the time of the crimes. Ake referred to the fact that he was living with a Theresa Colley, who was Hatch's sister (A. 11a-12a). He also related that on the morn-

ing of the murders his father and grandfather helped him move furniture out of his house (A. 3a).

Therefore, Ake produced not one witness who was personally acquainted with him to testify concerning his mental condition at the time of the murders but requests this Court to hold that the State must provide him with expert assistance to attempt to determine his mental state four months earlier.

Ake is asserting that the Constitution compels the State to provide a particular kind of witness, i.e., an expert witness, despite the fact that there were a number of lay witnesses available to testify on the issue of Ake's sanity.

This Court has thus far held that the Sixth Amendment guarantees that a

defendant have compulsory process for obtaining witnesses in his favor. Washington v. Texas, 388 U.S. 14 (1967). In the present case state process was available for Ake to subpoena any witness. Okla Stat. Ann., tit. 22 §§ 707-710 (West Supp. 1979). This included witnesses residing out of county and out of state. Okla. Stat. Ann., tit. 22 §§ 715, 718, 723.⁸ An arrest warrant could also have been issued to insure the presence of witnesses for trial. Okla. Stat. Ann., tit. 22 §§ 274 and 719.

Furthermore, with regard to Ake's claim that he was denied the "necessary

⁸ Okla. Stat. Ann., tit. 22 § 718 provides that all witnesses for criminal defendants who appear pursuant to a subpoena issued on his behalf shall be paid their fees and mileage out of the court fund.

expert assistance," it is to be remembered that the only "assistance" which the Constitution specifically guarantees is the "Assistance of Counsel." Faretta v. California, 422 U.S. 806 (1975).

There is presently no constitutional right to have a psychiatric expert provided to an indigent. United States ex rel. Smith v. Baldi, 344 U.S. 561, 568 (1953). The State complied with all present constitutional mandates concerning the mental status of defendants by having appropriate mental treatment in order for Ake to be competent to understand the nature of the proceedings against him. Drope v. Missouri, 420 U.S. 162 (1975); Dusky v. United States, 362 U.S. 402 (1960). Ake's own attorney declined to avail himself of procedures

to determine competency to stand trial (Tr. 3-4).⁹

The state of mind of a defendant with regard to criminal culpability has long been the province of state court systems. In Powell v. Texas, 392 U.S. 514, 534 (1968) the Court refused to embark upon the course of articulating "a constitutional doctrine of criminal responsibility." In Leland v. Oregon, 343 U.S. 790 (1952) the Court refused to invalidate an Oregon law which placed the burden upon the defendant to prove his insanity at the time of the commission of the crime beyond a reasonable

⁹ Okla. Stat. Ann., tit. 22 §§ 1175.1 et seq. (West Supp. 1983) grants a defendant the right to a jury trial on the issue of competency to stand trial. At the time of the Petitioner's trial the statute granting that right was Okla. Stat. Ann., tit. 22 §§ 1161 et seq. (West 1971).

doubt, despite the fact that Oregon was the only state placing such a burden on a defendant. The continuing validity of Leland has been reaffirmed in recent years. Rivera v. Delaware, 429 U.S. 877 (1976); Patterson v. New York, 432 U.S. 197, 205 (1977).

In his Brief Ake can point to only nineteen states which have a statute for compensation of expert witnesses for the criminal defendants (Brief of Petitioner, p. 25). This is hardly the overwhelming number of states which this Court has used as guidelines in determining constitutional appropriateness in other contexts. Cf. Coker v. Georgia, 433 U.S. 584 (1977) (Georgia only State which imposed death penalty for rape of an adult woman); Leland v. Oregon, supra, 343 U.S. at 798.

Ake also cites the case of Little v. Streater, 452 U.S. 1 (1981). However, that case is clearly distinguishable from the present one. There, Connecticut imposed an "onerous evidentiary rule," 452 U.S. at 14, upon putative fathers in paternity actions in that under Connecticut law a defendant's testimony was insufficient to overcome the plaintiff's (mother's) prima facie case. The Court held that denial of a blood group test to an indigent putative father denied him due process under these circumstances. In addition to the facts of the unfair evidentiary burden placed upon the defendant, the Court found that the unquestioned reliability of the blood grouping test was critical in the finding that the putative indigent was denied due process when the State refused to provide such a test.

In the present case no evidentiary rules existed which placed Ake at a particular disadvantage. Cf. Sandstrom v. Montana, 442 U.S. 510 (1979). The instructions given to the jury placed upon the State the burden of proving beyond a reasonable doubt that Ake was sane at the time of the commission of the crime (R. 142-143, 152-153).

Furthermore, the validity of blood grouping tests is accepted, while the use of an expert witness on the question of sanity is definitely without scientific certainty. One can assume that a jury would regard with skepticism a claim by a psychiatrist or psychologist that Ake was insane at the time of the commission of the crime after his attorney declined to call as witnesses a number of people (parents, grandfather, sister, wife, friends, co-workers, and

employer) who saw him on that day, who knew him well, and who would be expected to be sympathetic toward the idea that Ake was insane when he murdered the Douglasses.

Ake contends in his Brief (p. 23-24) that several Courts of Appeal "have recognized the constitutional necessity of providing expert assistance for indigent criminal defendants in proper cases."¹⁰

¹⁰ The State disagrees with Ake's flat assertion that "eight" Court of Appeals have made this finding. A reading of Burger v. Zant, 718 F.2d 979, 981 (11th Cir. 1983) does not support this contention in any way. United States v. Decoster, 624 F.2d 196, 210 (D.C. Cir. 1976) involved an interpretation of 18 U.S.C. § 3006A. Cf. Proctor v. Harris, 413 F.2d 383 (D.C. Cir. 1969) (Burger, J.). In Christian v. United States, 398 F.2d 517, 519, n. 7 (10th Cir. 1968), the Tenth Circuit stated only that the denial of an expert "may" in certain circumstances violate the Sixth Amendment. Cf. Watson v. Patterson, 358 F.2d 297, 298 (10th Cir. 1966)

The cases cited by Ake and other cases reveal that the various Courts of Appeal use a case by case method of determining whether due process has been violated. Matlock v. Rose, 731 F.2d 1236, 1243-1244 (6th Cir. 1984) ("At a minimum, there must be a fair factual basis for the defendant's contention that his sanity is in doubt, that that issue must be a substantial one in his defense."); Moore v. Zant, 722 F.2d 640, 648-649 (11th Cir. 1983) (defendant not entitled to his own microscopic experts); Westbrook v. Zant, 704 F.2d 1487, 1496-1497 (11th Cir. 1983) (under the circumstances, defendant in capital cases not entitled psychologist for second stage evidence where friends,

relatives or neighbors could have been subpoenaed to testify); Bradbury v. Wainwright, 658 F.2d 1083, 1087 (5th Cir. 1981) ("A psychiatrist is not constitutionally required."); Payne v. Thompson, 622 F.2d 254, 255 (6th Cir. 1980); ("Nor can we find a federal constitutional violation in the state trial court's refusal to provide expert witness and psychiatric examination by witness of his own choosing."); Hoback v. Alabama, 607 F.2d 680, 683 (5th Cir. 1979) (refusal to provide investigative services for defendant did not constitute a denial of due process); Pedrero v. Wainwright, 590 F.2d 1383, 1390-1392 (5th Cir. 1979); Satterfield v. Zahradnick, 572 F.2d 443, 445 (4th Cir. 1978) ("Whatever may be the extent of an indigent's right to an impartial psychiatric evaluation to enable him to place the

issue of insanity before the trial court, see United States ex rel. Smith v. Baldi, [citation omitted], we are of opinion, on authority, that there exists no constitutional right to the appointment of a private psychiatrist of the defendant's own choosing at public expense.").

In Pedrero v. Wainwright, supra, the Fifth Circuit cited the cases of Bush v. McCollum, 231 F.Supp. 560, 565 (N.D. Tex. 1964), aff'd 344 F.2d 672 (5th Cir. 1965) (defendant's sanity at time of the offense must be "seriously in issue") and Brinks v. Alabama, 465 F.2d 446, 449 (5th Cir. 1972) (there must be a "reasonable ground to doubt" the defendant's sanity at the time of the offense) and found that where, among other things, no testimony was offered at the arraignment or trial to suggest

that the defendant "behaved in a strange or irrational manner at the time of the offense," he was not constitutionally entitled to a psychiatric examination. 590 F.2d at 1390-1392. The Court also distinguished that case from the case of Hintz v. Beto, 379 F.2d 937, 941 (5th Cir. 1967) (court used test of whether there was a "fair factual basis" for the question as to the defendant's sanity at the time of the offense) where a defendant who had a history of alcoholism and bizarre behavior, and the circumstances of the offense "tended strongly to speak of his derangement." The Court in Pedrero held that under the facts of that case, defendant's sanity at the time of the crime was not "seriously in issue." 590 F.2d at 1392.

In the present case there was no showing that on the day of the murders

Ake's behavior was in any way bizarre or erratic. The detailed and complete account of the day's activities in his confession also negates any serious question concerning his sanity on the day of the crime. Many details of the confession, such as the account of the murders themselves, the activities of Ake and Hatch on the day of the murders, the locations where the two fled, the telephone call to Ake's sister, Ake and Hatch's association with Virginia Keefe, are corroborated by other witnesses.

The only theory which the facts of the case could rationally support is that at some point approximately four months after the murders Ake became mentally ill. This is not sufficient to support a constitutionally mandated mental examination on the issue of sanity at the time of the offense.

The State concedes that there may be cases in which the denial of funds to conduct examinations or tests requiring expert witnesses would render the trial so fundamentally unfair as to deny due process. Obviously, a State may take some action or refuse to provide an indigent access to a defense which constitutes such a denial. Little v. Streater, supra. But unless a specific provision of the Bill of Rights has been violated, the "fundamental fairness" provision of the Fourteenth Amendment is the determinative guide. Donnelly v. DeChristoforo, 416 U.S. 637, 643-645 (1974); Matlock v. Rose, supra, 731 F.2d at 1244.

Therefore, based on the facts of this case, the State contends that Ake received a fundamentally fair trial and that the absence of expert testimony on

the issue of insanity, in view of the absence of lay witness testimony on the issue of insanity, did not deny him due process of law.

The establishment of a constitutional right to expert testimony on the facts of this case would open a pandora's box with regard to the claims of prisoners, particularly those on death row. Such a decision would surely be held to be retroactive since the addition of an expert witness would be held to "enhance the accuracy of criminal trials." Solem v. Stumes, 104 S.Ct. 1338, 1342 (1984). Obviously, delays in the execution of death sentences would inevitably follow.

Furthermore, the increase of expense to the criminal justice system, which should be considered a governmental interest (which includes the "func-

tion involved and the fiscal and administrative burdens,") under the due process test of Matthews v. Eldridge, 424 U.S. 319, 335 (1976), would be staggering. Virtually every defendant who had a mental problem before or after a crime would claim the right to funds for independent psychiatric examinations to determine if he or she was insane at the time of the crime, or if even a reasonable doubt existed as to sanity, which is the test in Oklahoma. Rogers v. State, 634 P.2d 743, 744 (Okla. Cr. 1981).

Since a "fair factual basis" for Ake's contention that his sanity was in doubt did not exist, Matlock v. Rose, supra, the State asserts that no constitutional error occurred in this regard.

Furthermore, the Oklahoma Court of Criminal Appeals in the present case held that the argument concerning his

alleged right to funds for expert witnesses on this issue was waived by the failure of Ake to raise such in his Motion for New Trial. See, J.A. 71. In Oklahoma, only assignments of error presented in the motion for new trial will be considered on appeal, unless the error complained of is fundamental. Hawkins v. State, 569 P.2d 490, 493 (Okla. Cr. 1977). This is a long-standing rule of criminal procedure in Oklahoma. See, Eads v. State, 640 P.2d 1370, 1371 (Okla. Cr. 1982); Strong v. State, 547 P.2d 383, 385-386 (Okla. Cr. 1976); Hurley v. State, 416 P.2d 967, 971-972 (Okla. Cr. 1966).

Failure to comply with a state procedural rule normally bars federal review of an alleged constitutional error. Engle v. Isaac, 456 U.S. 107 (1982). See also, Estelle v. Williams, 425 U.S.

501, 513-515 (1976) (Powell, J. concurring) (failure to object to appearing in prison garb should act as waiver of constitutional right).

PROPOSITION II

IN A CAPITAL CASE, THE STATE HAS NO DUTY TO ASSIST A CRIMINAL DEFENDANT DISCOVER MITIGATING EVIDENCE; IN THE PRESENT CASE AKE WAS FREE TO INTRODUCE ANY MITIGATING EVIDENCE AND THEREFORE THE CONSTITUTIONAL REQUIREMENTS OF LOCKETT AND EDDINGS WERE COMPLIED WITH.

In Proposition II, Ake contends that the State has a constitutional duty to provide funds to an indigent defendant to enable him to prepare and present evidence in his favor at the sentencing hearing. Ake asserts that he should have been able to attempt to obtain expert psychiatric testimony concerning his mental condition.

The State again notes that Ake failed or refused to call any number of witnesses who had direct knowledge of his mental condition on the day of the murders. Again, there is not a shred of evidence to support Ake's contention that he was insane at the time or was suffering from any mental illness. No witness was called who would say even that Ake was acting in a bizarre or unusual manner at any time contemporaneous with the crime.

To the contrary, Dwayne Lucas testified that there was nothing unusual or strange about Ake on the day of the murders (Tr. 390-391). The State again points to the detailed and explicit confession which contains numerous details corroborated by other witnesses in the case such as Mr. Lucas, the Douglass children and Virginia Keefe.

In Eddings v. Oklahoma, 455 U.S. 104 (1982) and Lockett v. Ohio, 438 U.S. 586 (1978) the Supreme Court held that the State could not prevent a defendant from presenting any relevant evidence which would bear on the defendant's sentence in a capital case. The State has not done so here; Ake was free to call any of the numerous witnesses in existence who had knowledge of his mental condition at the time of the crime.¹¹

If the Court rules that Ake is entitled to funds for the hiring of an expert to attempt to discover evidence in mitigation of punishment, there would seem to be no death penalty case in which a State would be free from such a

¹¹ Oklahoma specifically allows a defendant to present evidence as to "any" mitigating circumstances. Okla. Stat. Ann., tit. 21 § 701.10.

burden. Obviously, virtually every murderer suffers from some degree of mental disability or personality disorder and the State should not be constitutionally compelled to pay for an expert who would attempt to uncover a justification for the murderer's conduct.

The State is under no constitutional duty to create exculpatory evidence. Richards v. Solem, 693 F.2d 760, 766 (8th Cir. 1982) ("Although the State has a duty to disclose evidence, it does not have a duty to create evidence.")

Furthermore, Ake had the benefit of three expert witnesses who examined him with regard to his mental competency to stand trial. Dr. Allen, Dr. Garcia, and Dr. Enos all testified concerning his mental condition. The fact that they did not give an opinion as to the sanity

of Ake at the time of the crime is, in the context of the entire case, not a constitutional violation.

In Westbrook v. Zant, supra, 704 F.2d at 1496-1497 the Eleventh Circuit stated that, in a capital case, where the defendant's history of long incarceration was placed before the jury, the defendant himself could have taken the stand in the penalty phase of the trial and introduced mitigating testimony, and "[f]riends, relatives, or neighbors could have been subpoenaed to testify," there was no constitutional error. The Court observed that "[t]he evidence for which Westbrook sought a psychologist could have been demonstrated by other methods." 704 F.2d at 1497.

For these reasons, no constitutional error occurred by the lack of state funding for Ake's attempt to secure

expert witnesses to testify concerning alleged mitigating evidence which he claims could have been discovered.

PROPOSITION III

WHERE AKE'S ATTORNEY WITHDREW HIS MOTION FOR SANITY TRIAL TO DETERMINE PRESENT SANITY AND THUS DID NOT AVAIL HIMSELF OF THE PROCEDURE IN OKLAHOMA FOR DETERMINING COMPETENCY TO STAND TRIAL, HE CANNOT NOW CONTEND THAT HE WAS UNABLE TO COMPREHEND THE PROCEEDINGS AGAINST HIM.

Ake next complains that the prescribed Thorazine dosage prevented him from comprehending the proceedings against him.

As previously noted, Ake's trial attorney withdrew his Motion for Sanity Trial to Determine Present Sanity on the day of trial.

In Oklahoma a defendant in a criminal case has the right to a jury trial on the issue of whether he is competent

to stand trial. Okla. Stat. Ann., tit. 22, §§ 1161 et seq. (West 1971) (Now Okla. Stat. Ann., tit. 22 O.S.1981, §§ 1175.1 et seq. (West 1981); Cox v. State, 644 P.2d 1077, 1078 (Okla. Cr. 1982); Beck v. State, 626 P.2d 327 (Okla. Cr. 1981). Since Ake withdrew the motion for such determination and raised this issue only in closing argument, Ake's contention in this regard is meritless.

This case differs materially from that in Drope v. Missouri, 420 U.S. 162 (1975). In that case the defendant's attorney objected to the case proceeding to trial and requested a psychiatric examination. The trial court overruled a Motion for Continuance on this and another ground.

In the present case Dr. Garcia sent the Court a letter on May 22, 1980,

advising that Ake was "able to adequately consult with an attorney and he does have a rational as well as actual understanding of the proceedings against him." (R. 17).

With regard to the Thorazine, the amount in question which was administered to Ake, 200 milligrams, three times a day, was prescribed by Dr. Garcia. Dr. Garcia is the Chief Forensic Psychiatrist at Eastern State Hospital, which is a State mental hospital in Oklahoma (Tr. 587).

There is nothing in the record or in Ake's Brief to suggest that the amount of Thorazine administered to Ake was excessive. His brief contains only a general attack on the use of Thorazine. The amount prescribed by Dr. Garcia must be considered to be appropriate since its correctness is uncon-

tradicted by anything in the record or in Ake's Brief.

Furthermore, Ake's attorneys took no action to attempt to reduce or halt the amount of Thorazine given to him.

CONCLUSION

For the reasons stated, the State respectfully requests that Ake's conviction and sentence be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

APPENDIX A - STATEMENT OF THE
PETITIONER GIVEN ON NOVEMBER 23, 1979
AND SIGNED ON NOVEMBER 26, 1979.

GS - Greg Shields DS - D.L. Stedman

CANADIAN COUNTY SWORN AFFIDAVIT

STATEMENT OF GLENN BURTON AKE

Q: This will be an interview with Glenn Burton Ake at the Canadian County Sheriff's Office in the Sheriff's Office in El Reno, Oklahoma. My name is D.L. Stedman, Sheriff of Canadian County. Present with me are Agent Greg Shields, OSBI and Mr. Glenn Burton Ake. Glen what is your date of birth?

A: Nineth month, the 8th day of 55.

Q: (DS) Is Glen Burton Ake your true and correct name?

A: Yes it is.

Q: (DS) Do you go by any aliases?

A: Yes I do.

Q: Tell those to me, would you?

A: John Vandenover, its not Johnny like everybody has been saying, Skip Thompson.

Q: (DS) Spell Vandenover for me?

A: V-A-N-D-E-N-O-V-E-R. All one name, no hyphens. The other name I went under was Skip Thompson and I went under that in Casper, Wyoming and Shoshoni, Wyoming. I went under Skip Jenkin that in Louisiana, New Orleans when I was working for Jack Thompson Shows. Billy Williams I used one time for one day

2a

just passing through. The people that I stayed at their house ask my name and that's what I told them. That's all my aliases.

Q: (DS) Okay, Glenn, are you aware that this conversation is being taped?

A: Yes I am.

Q: (DS) Have you agreed to it?

A: Yes I have.

Q: (DS) Okay, let me read you your rights under the Miranda Warning. You have a right to remain silent. Any statements that you make can and will be used in evidence against you. You have a right to consult with and have present prior to and during interrogation an attorney either retained by you or appointed. If you cannot afford an attorney one will be appointed for you prior to any questioning if you so desire. You may stop talking at any time you desire. Do you understand each of these rights that I have explained to you?

A: Yes sir.

Q: (DS) Having these rights in mind do you wish to talk with us now?

A: Yes sir.

Q: (DS) Okay, Glenn in your own words, why don't you start back on October 15th and tell us what happened that day and during the previous days until you were arrested in Colorado.

A: Alright, a, there was one other question that I wanted to ask you. Anyway it started out that morning. I got up and I found out that the girl I was living with, Theresa Colley, was a going out on me, she stayed out all night that night and the night before. And I woke up and I was sort of pissed off. I started drinking before I went to work.

Q: (DS) And this was all on Monday the 15th of October?

A: This was all on Monday. I woke up about 8 o'clock in the morning and started this. I started drinking. At 2 o'clock in the afternoon my crew showed up and she wasn't there still. So I went on ahead and went to work, continued to drink all the way there too. Got there and showed up for work . . . So we decided to get rid of my job, so I left my derick had there, I was short-handed already, left my derick hand to drill, cause the tool pusher said that he could have a drilling job next if I want to get rid of him. So me and Steve borrowed Dewayne's car, Dewayne Lucas, which was my derick hand and he loaned it to us and so we went ahead and went back to Enid, got back to Enid and we was around the house and she still hadn't come around. I tried to find her and I finally located her and I couldn't get in touch with her, she wouldn't talk to me, so she there. So I went ahead and moved all my furniture out of the house, everything I had, called my dad, he called my Grandfather, they both showed up over there, we moved the whole house out. We got the house moved out, I didn't know what I was

going to do, I started looking for her, couldn't find her, finally we just took off. We were going to take the car back out, we had Steve's car there, Steve has a car in Enid, had one, still there probably, somewhere. And we took off and we went out towards the rig, went by the rig, we didn't go exactly by it, went around the section line by it. Went over to this other place, we looked at it, didn't look very promising so we just went on by it. At that time I knew that I couldn't go back by the rig so we just decided to head on down the road and get out of there, we had a little bit of money on us. So we went on, we headed on down the road, I forget which highway it was, we cut over the Hennessey and started coming sought, bought a bunch more booze, whiskey and stuff, started drinking. We got down the highway, it was dark time, I don't know what time it was exactly and we decided to start driving the section lines to see if we could get us, pick us up some more money by doing a burglary or something, you know. We drove up to this one house and we didn't like it so we drove out. We went into two or three houses like that and finally we came to this one house where Mr. Douglass lives. We pulled into the driveway and there was about 6 or 7 Doberman Pinchers met us at the driveway so I went up and made a phone call, played like I was going to make a phone call, went up to the door and she let us in. Well she . . . they didn't let us in the dogs stopped us and they came outside and met us and they let us come in to make a phone call. I said I forgot the phone number in the car and so I went

back to the car to get it, I was pretty scared. I never done . . . all we was going to do was the burglary but the people was home. So we . . . I went back up to the house and played like I was going to make a phone call and told Steve to meet me coming in the door, come on in the door. Steve came up to the door and I pulled out my gun and I said alright, everybody in the livingroom on the floor. Everybody went in the livingroom on the floor. We continued to go on through the house to burglarize the house with the people there and all, that was all we was going to do is burglarize the house. So we came back in the livingroom, we stayed there for about 30 minutes, I guess, searching the place, we had one of the kids show us around to every room, where all the money was, all the little cups of money and everything, trying to get some money. So Steve goes through their wallets, I guess, doesn't find nothing but a credit of Mrs. Douglass. They had bunches of credit cards but nothing was taken except for one Visa car from Mrs. Douglass. Left all his credit cards and everything so people would think nobody took credit cards. So we were all in the living room and it was about time to leave and I told Steve to go outside and get in the car and turn it around and get it ready to go, get it running and ready to go. Steve goes outside and hops in the car and he warns me, he says, "don't do nothing drastic before we leave." I tell him, I say, "don't worry I ain't, don't worry ain't." Finally I got him talked into leaving outside, going outside. He walks outside get in the car turns it around,

starts it up. And I stands by the end of the couch and I unloaded a .357 magnum loaded with .38 wad cutters on these people. I continue to run out the door and the dogs were all barking at me so I slowed down to a walk, walked out the door, I drove off, drove off. Steve asked me what I done and he told me I should of never done nothing like that. So we go on down the road to Arkansas, Ft. Smith, Arkansas. So we decided to get rid of that car that Dewayne Lucas loaned us so we parked it in the back of this motel where we stayed that night. We parked it behind it and left it there and hopped on a bus to Memphis, Tennessee and we decided that we would make a switch in buses and confuse everybody. We switched buses and we went to Memphis and we stayed there at the Ramada Inn for two days where we got ripped out for \$800 but we still had \$900 left. We had \$1700 when we left, before we done any burglaries, but we knew that wasn't going to last . . . Neverthe less, we should of never done any of those serious crimes. We went on down to New Orleans, we got that job, we got that job and we went to work and we worked there for about a week or so and I met this girl, Ginger, I don't know her last name at all now. And we picked her up, Steve told me not to pick her up, not to take her with us but I wouldn't listen to him cause I knew her before, when we lived in Shoshoni with her and she knew me as Skip, that's what everybody while the whole journey was on, was Skip. So we went ahead and worked awhile and she was going to move on the lot with me and they fired me for letting her move on the lot. So we went ahead and left

there headed towards Texas on the bus and we got to Texas. Can I stop for a moment?

Q: (DS) Yes.

A: When we were headed through Texas, we started headed into Texas, we were on the bus we didn't have enough money to ride very far and we were going to stop at that lake, right this, right that side of Texas, still in Louisiana.

Q: (DS) Lake Charles?

A: Lake Charles. Okay we met this guy on the bus and he said he could put us up for the night if we made it to Orange, Texas. The next town away. We had just enough money to get there, we done blow all our money on our travels. So we went ahead and we went to Texas, Orange, Texas, we stayed there the night this man had a wad of money on him you wouldn't believe, about \$2800-\$3000, but he was being real good to us by giving us a place to stay and everything and Steve wanted to go ahead and burglarize it but we didn't. I told him no and I was the main whole thing the whole cap-pers was my brain, whatever I told Steve we didn't do, we didn't do it. So we went ahead and left the next morning with just a few dollars in our pockets and he gave us a ride . . . well we stayed there two days, yeh, two days, and we continued on and he gave us a ride, he wanted to get rid of us out of his house I guess, cause we had already imposed on him two days. He gave us a ride it was about 40 miles from there, about 50 miles or something like that,

where he dropped us off on this road by this park, stopped by this park, went across the street, he dropped us off headed towards 80. We didn't want to head north . . . We was headed north there so we could just go south and cut off on 10. We went down that way, playing cash for all the gas. No one could trace us with the credit card. We get down south on 10 comes on across into New Mexico into Arizona, into Nevada, got up through Nevada, get into the northern part of Nevada and just crossed the border into California and we're low on money. Se we head south again cause there was no cut over from where we were at. So we had to go all the way down south to Barstow, towards Barstow California, where I had a card from that one guy in Texas. I used it in one place. We went on from there, we went on down south, started using that Visa card, Ginger did. Started using that Visa card and went all the way across to California got up through my home town, up through my home town, on through there, went north of there and started headed east again, figured we would throw the patrol again, by heading east. Changed plates three times already by that time, on that car. Then we picked up another set of California plates on that last venture east. So we threw them off cause we didn't want to use that Visa card in the same place all the time. We started headed east and got into Nevada and started blowing all our money. Well I gave Steve the money and he goods with money and he can handle money, I can't, I blow it too much. I gave him \$150 and I kept \$300. We were headed through there and we got

to a place called Battle Mountain and we was gambling in the Casino, he was playing 21 and I was standing at the bar, drinking whiskey. Every time we done this, I had to be all fucked up, everytime I done any shooting I was all fucked up on whiskey. Whiskey makes me nutty, anybody will tell you that, anybody, that's the only time I'm ever rowdy whenever I drink whiskey. We stopped there started driking Whiskey and everything and these guys invited us over for dinner, these young people, they were all bikers and stuff. The kind of people I run around with. I had a leather vest on at the time, levis, Harley Davidson belt buckle, boots, Harley Davidson hat and everything. So they invited us over thinking we were bikers too, you know, So we went over there and we partied there for three days, hand, \$300 worth of whiskey, half gallons, gallons of whiskey, wine, beer, we headed out of there thinking we were getting hot cause the cops were watching us over very close. We headed out of there and headed into Utah on Visa, everything, all our travels were on Visa. We went all over Utah with that Visa card. She just sign the shit right out of it. Spend 3 or 4 thousand dollars on that Visa card in Utah alone. Whatever she wanted to buy and whatever body wanted to buy, we bought with that Visa car, we got com checks with that Visa card and everything. She always kept saying com checks, com checks, that's all she got, she got Visa quick, she got Visa power or what every you want to call it. We headed out of Utah, headed north up to Wyoming. Stayed in Rock Springs one night and headed on

down to Baggs, got to Baggs and I went over and seen a friend of mine I wanted to see. I was going to work on a rig. Was going to keep cool, lay low and no do nothing else wrong cause I didn't do nothing wrong in that state. And here we get into an argument that night at the bar but we wasn't bar hopping. We was drinking all day before then. And we left that night, well we got into an argument and everything in the bar and I wanted to knock the shit out of her but I didn't, didn't ever hurt her, so I busted her glasses, that's just as bad as hurting her cause she can't hardly see very good. So she called the law on me, I guess, told them where I had my 7 mm rifle at. The law, they just went over and got that. And I went over where the law was at, I didn't know they were there, to get that 7 mm rifle. And the laws was standing out on the road around the corner of the block. So when they seen us in there they come around. When they come around they said "Hold it you by the car." And I was outside the car, they couldn't see Steve inside the car. So I took off running on foot. Ran for a little bit around the trailer, they still were standing over there. So I ran back to the car, hopped in the car, backed it out of the driveway and takes off and that's when I headed sought out of Baggs three miles from the border. I comes down south about 18 miles, going about 130 miles an hour on black ice trying to lose them. I couldn't lose them very easy, there lights were back behind about a mile an a half or two miles. So I flipped a huey, slowed down enough where I could flip a huey and I come slidding in the middle

of the road like this here, making a 180. I start coming back, I get back up there and we pass them and he sees what I done and he was already going fast as hell you know, and he couldn't stop and I whipped off on this other road which I knew, cause of an oil field up there that I worked in. Whipped off it and went on down the road quite a ways, went off this one road, parked, turned off all the lights and everything and watched him come back and go right on by and he kept on going until his lights were out of sight. We turned on and came back down that one road where we got caught at. That brings us up to date.

Q: (DS) Okay, Glenn, now that we've gone through that with you in a narrative form telling us, lets go back and start on October 15, which was a Monday. What did you do that first thing on October 15?

A: Woke up and started looking for Theresa.

Q: (DS) Who is Theresa?

A: Theresa Colley was the one that I was living with up there in Enid.

Q: (DS) Is that Steve Hatch's sister?

A: Theresa Colley's maiden name is Theresa Hatch, yes it is.

Q: (DS) Okay, and why was you looking for her?

A: Cause I was living with her and she hadn't been home in two nights in a row and I was made at her and that why I started drinking, and smoking pot.

Q: (GS) Had you had a fight with Theresa the night before she left?

A: No. That's what I couldn't understand, I gave her my whole check and everything. Everything, I just come home. . . . I'd work come home and give her my money, taking care of it, buy the kids what they need everything. I couldn't understand it. That's what I couldn't understand.

Q: (DS) After you couldn't find her, what did you do then?

A: We started drinking. I shot up about half a gram of cocaine, at one time, started smoking pot, looking for her.

Q: (DS) What time of day was that?

A: 9 o'clock in the morning, 10 o'clock in the morning, somewhere around in there.

Q: (DS) Okay, and how long did you look for her?

A: About an hour, that's all I could drive.

Q: (DS) Were you by yourself?

A: No, Steve was with me.

Q: (DS) Steve Hatch?

A: Steve Hatch, well he was with me the last half hour, the first half hour he was gone, I think, he was talking to her.

Q: (DS) Okay, this puts us up to about 10 o'clock, where did you . . . what did you do then?

A: I just kept looking for her, drinking and smoking dope and shooting drugs.

Q: (GS) Where were you at that time?

A: In my house.

Q: (GS) And where was that?

A: 2112 West Pine, Enid, Oklahoma.

Q: (DS) Okay, what time did you leave the house then?

A: About 2 o'clock.

Q: (DS) Who did you lave with?

A: My derick hand came to pick us up.

Q: Who is he? (DS)

A: Dewayne Lucas.

Q: (DS) Okay, your derick hand?

A: He was my derick hand, yes.

Q: (DS) Okay, what did you do for a living.

A: I was a driller on a oil rig, working for Sarah Drilling Company.

Q: (DS) Where at.

A: Hennessey Highway and the Drummond Highway, right at that corner.

Q: (DS) That would be west of Hennessey?

A: West of Hennessey, south of Drummond, all the way to the Hennessey highway.

Q: (DS) How did you leave?

A: In his car, he was driving, I couldn't drive.

Q: (DS) Was anyone else with you?

A: Steve Hatch was.

Q: (DS) Okay, what kind of car did Dewayne Lucas have?

A: 64 Malibu.

Q: (DS) Do you remember the color?

A: It was yellow with a lot of primer spots on it. Banana yellow, light yellow, lighter than banana, like a real faded out banana.

Q: (DS) And you said this was about 2 o'clock?

A: About 2:30 or something like that.

Q: (DS) Where did you go?

A: Went to the rig.

Q: (DS) Okay, did you do anything on the way to the rig?

A: Okay, drank beer and whiskey. Soon as we get to the rig, I could make it up to the dog house and change clothes, that's all that I could do. . . . that's when we borrowed the car and left.

Q: (DS) Glenn do you, are you an outdoors man?

A: Yes I am.

Q: (DS) Do you like guns and hunt quite abit?

A: No.

Q: (DS) You don't hunt much?

A: I've never went hunting at all.

Q: (DS) Is that right?

A: I lugged guns while I was in the army. I was an expert. I like tearing them apart and working on them and putting them back together.

Q: (DS) Did you own a gun at that time?

A: That day, yes I did.

Q: (DS) What was it?

A: .357 magnum.

Q: (DS) Where was that gun at that time?

A: It was in the car, in my lunch box. I was going to take it out to the rig and practice shot with it.

Q: Did you?

A: No.. I went out and bought a whole box of shells but I never shot them.

Q: (GS) When did you buy shells?

A: The day before, the 14th.

Q: (GS) Where did you buy these shells?

A: K-Mart, in Enid, Oklahoma. They had no .357 rounds at all.

Q: (GS) What type shells did you buy?

A: .38 wad cutters. .38 Special Wad cutters. They said they would shoot through the gun but they would leave a lead build up so I bought a wire brush and a cleaner so I could clean the barrel every time I fired 6 shots through it, which I did. I practice shot with it quite a few times before we went out that night?

(GS) Q: Where did you practice shooting?

A: I practice shooting at the reserve pits. Cross reserve pits, that's an oil rig about. . .-

(end of tape)

Q: (DS) This will be the beginning of side two.

A: I was practice shooting, I practiced about 12 rounds at the Cross reserve pit. About 150 yards and I could hit a coke bottle with it at that range. Pretty damn good.

Q: (GS) Where was this reserve pit located?

A: The one we practiced on. It was back towards Drummond and behind Waukomis. It was back northwest, where a rig had just moved off location. There was nobody on it. I went in there and I was just practice shooting. There was no houses around in site or nothing.

Q: (DS) Was this that day?

A: That day.

Q: (DS) What were you shooting at?

A: Coke bottles, coke cans.

Q: (GS) Who was present with you?

A: Me and Steve, period.

Q: (DS) Was this before you went to work?

A: No this was after we went to work and after we took off. It was before I moved. We had practiced about 15 shots before we went home, before I moved.

Q: (DS) Did you do any practicing before you went to work when Dwayne was with you?

A: Nope. I showed him the gun and everything but we never shot it. Cause I just had bought it?

Q: (GS) Where did you buy the gun?

A: I bought it off another guy. I was drinking in a bar in Lahoma and that guy was talking about him having a bunch of guns and stuff and he said he had a .357 for sale and I told him I would buy it and we went out to his house that night and we were drunk and I bought it.

Q: (DS) When was this?

A: Around the 13th.

Q: (GS) Do you know his name?

A: No I don't.

Q: (DS) What kind of gun was it?

A: .357 magnum, Ruger.

Q: (DS) Ruger, .357. Can you describe the gun to us?

A: Just a regular .357, blue on one side was tarnished.

Q: (DS) It was blue steel?

A: It was blue steel, yes, but the blue on it on one side was bad.

Q: (DS) How long a barrel did it have?

A: Maybe about 3", 3½", I don't know exactly.

Q: (DS) How much did you give the man for the gun?

A: Gave him \$125. I sold it for \$50 when I sold it.

Q: (GS) Where did you sell it at?

A: Louisiana.

Q: (GS) Who did you sell the gun to?

A: A guy who picked us up hitch hiking. I don't know who he is, what, and where. I know where he is located now, 5 miles south of New Orleans somewhere.

Q: (GS) How could you locate him?

A: Couldn't. Not now.

Q: (GS) Is this where the man picked you up?

A: No, he picked us up down by, Homa, Louisiana, south of New Orleans about 40 miles or so. We were hitch hiking. We didn't have no money to catch a bus. So I sold him that gun so we could have some money. I seen a carnival along the way back towards where he was taking us and I had him drop us off so we went and got a job right quick cause I knew how to talk carney talk. I knew it when I was 14, 13 years old as a run away from home.

Q: (DS) Okay, lets back up to on your way to work. You were telling me you did not do any practicing on your way to work that day.

A: Nope.

Q: (DS) Okay, what time did you get to work?

A: 5 minutes to 3, Right on relief.

Q: (DS) And that's when you relieved the day light tower?

A: That's when we relived, every day, between a quarter tell and 3 o'clock on the money, we relieved them everyday. I've always been on time to work and everything, never been late, always showed up 7 day a week job and all.

Q: (GS) And how long were you at the rig?

A: About an hour, I guess, if that long, I don't know how long, I know it wasn't over an hour.

Q: (DS) This was the 15th of October, was that pay day?

A: I think we got paid the day before. No we got paid Friday and that was Monday. We got paid on Friday before then. They still owe me a weeks check. I'd like to get that so I could give it to my parents too.

Q: (DS) When you left the rig. How did you leave?

A: By Dwayne Lucas' car, he loaned it to us.

Q: (DS) And who left with you?

A: Me and Steve.

Q: (DS) What did you tell Dwayne Lucas that you were going to do?

A: Take the car to Enid and that we would bring the car back to him. Told him that I was going to move and get the hell out of Dodge.

Q: (DS) And you took Dwayne's car and went to Enid? (GS) What did you do when you first got back to Enid?

A: I started looking for her and I couldn't find her cause I knew she had a key to the place. Then I called my parents to move and we got everything moved out within 45 minutes. We moved kitchen set all the utensils, the living room set, couches, TV's stereos, hanging lamps, everything, bedroom set, bunk beds and everything out of the bathroom. That's everything I own.

Q: (DS) And who took that, your parents?

A: Its at my parents house now. I gave it to them to take there.

Q: (DS) Okay, last night, you made a phone call to your mother. Is that stuff the stuff that you told her to sell?

A: Yes. And I'd like to call her back and tell her not to sell it. Cause i'm doing this and I'd like to give it to my nephew when he gets older, cause it was plush stuff.

Q: (DS) Okay, after you parents left with the stuff and was moved over to there house, what did you and Steve do?

A: We decided to take the car back out there and on the way back out there we decided that we didn't have no transportation so we decided to take the car to Arkansas until we could get on the bus, which we had money.

Q: (GS) Did you have the money in your pocket?

A: Yes I had money in my pocket. I had that whole check, cause I never gave her that check cause I found out she was going out on me on Thursday.

Q: (DS) Did you have any other money on you, other than your check.

A: no.

Q: (DS) Did Steve have any other money on him other than what he got from his check?

A: No. Not at that time.

Q: (DS) Okay, you did not go write a check or go to the bank and get any money or anything?

A: Oh, yes we did, we went and drawed out our savings accounts.

Q: (DS) Where was that at?

A: That was at Northwest Enid, Northwest Bank of Enid.

Q: (DS) How much money did you get there, Glenn?

A: Hundred Dollars, I think, or something like that, I don't know what it was, I forget.

Q: (DS) Did Steve get any money there?

A: He got his money he had there too.

Q: (DS) Do you know how much that is?

A: I think it was around the same amount I had, it might have been 50 apiece, I don't know. It was either \$50 apiece or 100 apiece we had in there.

Q: (DS) Did you get that money out of a checking account or a savings account?

A: Savings account under our aliases.

Q: (DS) And what was that?

A: John Vandover and Steve Lisenbee. That was John Vandover and not Johnny. I never have used Johnny.

Q: (DS) Okay, when you started to leave Enid, did you do anything in Enid before you left?

A: Looked for her and that was it. That's all we did man.

Q: (GS) What time did you leave Enid?

A: I don't know it was in the afternoon sometime. Evening around 5 o'clock, 5:30 maybe 6. Somewhere around there.

Q: (DS) Okay, where did you go from there?

A: Headed towards the rig.

Q: (DS) The rig that you worked on?

A: Right to take his car back there but we decided right at the last moment that we weren't going to take his car back.

Q: (GS) After you left Hennessey what is the first town that you come to.

A: I don't know, to tell you the truth, I was drunk and I don't know where we were at. I wasn't driving, Steve was.

Q: (GS) Do you remember stopping any place?

A: We stopped in Hennessey to get some beer, south of Hennessey to get some beer to drink. That's it. Love's Country Store or what ever it was, south of Hennessey. Stopped there and got some beer, we had three cases of beer in the back.

Q: Okay, were you on Highway 81 at this time.

A: I think so, I'm not for sure.

Q: (DS) Where did you go from there Glenn?

A: South to these other peoples house. We went around looking for other places but nothing looked any good.

Q: (DS) Okay, if you were going south on 81 did you go through Kingfisher?

A: I guess so.

Q: (DS) Did you stop in Kingfisher?

A: Maybe to get gas. No we gased up at Love's Country Store. We didn't stop in Kingfisher, I don't think. I don't know, I was wiped out.

Q: (DS) Did you a. . . .

A: All I remember are the high points of that night.

Q: (DS) Do you remember going through Okarche?

A: When we went through, I slept most of the time except when we were looking at houses. I was getting ready to look at this house and I'd say, "no, no, no". And finally we came to that one house and he kept bugging me and bugging me to look at houses and I finally said, "pull in this one."

Q: (DS) Who kept bugging you, Steve?

A: Yeh. He kept looking at the ones with no lights on and everything.

Q: (GS) Did this house have lights on?

A: Yeh, the one I said pull in to, sure did, had a whole family in it. The Douglass family.

Q: (DS) Could you tell us where that house is?

A: To tell you the truth, I can't, can't tell you how to get to it or nothing. All I know is that it's not far from the highway.

Q: (DS) How far from the highway?

A: I don't know but its' not very far cause it didn't take us very long to get back on the highway.

Q: (GS) What would you guess it would be?

A: Quarter of a mile, not very far. I don't know for sure but I don't think it was very far from the highway.

Q: (DS) Is it on a country road, section line?

A: Dirt road, yeh. Section line.

Q: (DS) Which side of the section line is it on?

A: If you're headed east I think, its on the right had side. On the south side of the road. I'm I right, south side of the road, if you're headed . . . yeh, south side of the section line, I'm pretty sure.

Q: (DS) Okay, did you pull in the driveway?

A: Cause I don't know which way we were headed. I think we were headed, east or west when we pulled in. Yeh, we pulled right in the driveway and I told Steve, "pull right into driveway [sic], pull right up like you're going to make a phone call."

Q: (DS) How long was the driveway?

A: Pretty good driveway, I guess, I think.

Q: (DS) Straight or curved?

A: I think, it was straight with a small curve at the end. I think.

Q: (DS) Can you describe the house to us?

A: No, I sure can't. All I seen was 6 Doberman Pinchers or so.

Q: (DS) Was it frame, brick, one story, two story?

A: I think it was one story, with a part with two story in it. In fact, yeh, I know it had to be part of a two story, it had to be, because I remember going down stairs and there was a little room there and that was it. Downstairs, I think.

Q: (DS) Okay when you pulled up into the driveway and parked, where did you park?

A: Right in front of the garage door.

Q: (GS) Was there any other vehicles?

A: Yeh.

Q: (GS) Could you describe them?

A: One was in the drive, I don't know what they was, there was two vehicles there.

Q: (DS) Do you know what kind they were?

A: I don't know, I was pretty messed up whenever I was going in there, I was scared off my ass. Cause I never done nothing like that with people home, no burglaries, I didn't know what I was going to do.

Q: (DS) Who got out of the car first?

A: Me. I told Steve to set in it.

Q: (DS) And what did you do when you got out of the car?

A: I went up to make a phone call. When I seen they were going to let me make a phone call I told them I had to go back out to the car and get the number.

Q: (DS) Was the dogs barking?

A: Severly.

Q: (GS) Who answered the door?

A: A, I never went to the door, I went by the corner of the garage and I stopped and a girl and a boy came out.

Q: (GS) What did you say the girl and boy?

A: I said, "We need to make a phone call; we're lost. I'm trying to find a friend of mine."

Q: (GS) Who did you ask for?

A: Nobody. I don't remember who I asked for.

Q: (GS) Did you ask for anybody in particular?

A: Yeah, I asked for some Joe Blow or something, you know, some off the wall name. Just the first two names that caught in my head. Tom Brown or William McKoney or something, you know. Just anything that would pop up.

Q: (DS) But you don't remember what those names were?

A: I don't remember what I asked for, no.

Q: (DS) What did they tell you?

A: They said, "Yeah, you can come on in and use the phone." So I went in and seen there was a phone and I said, "I got to go get the numbers," so I walked back out to the car and told Steve to come on it as soon as I get inside and everything. So I walked back up and the dogs let us in at that time because the people had done told them it was all right, right? So we went back up to the door and I had a 357 stuck in my belt and my shirt on top of it and then I got

to the phone and picked it up and started dialing some numbers, just any numbers, and I don't know what numbers it was. I looked at the prefix and dialed those first three numbers of the prefix and dialed four more numbers, put the receiver down so it would disconnect, pretending like I was talking to somebody and I was looking at the door all the time to see if Steve come up and as soon as Steve come up, the man of the house, like that, and then I whipped it out, hung the phone up. And I said, "All right, everybody in the living room." I was the top of all the whole thing. I done all the talking and everything of the whole bit. I was pretending like I was a crazy man from the funny farm which I was just about at because I was all fucked up on whiskey.

Q: (GS) Did ;you tell them that you were crazy?

A: Yes.

Q: (GS) What did you tell them?

A: I told them I just out of of Ft. Supply. "I'm crazy, you better do what I say."

Q: (DS) And then what did you do, Glenn?

A: Made them all lay down; tied them up and started going through the house. Covered their heads up.

Q: (DS) Was Steve in the house at that time?

A: Yeah, at that time he was.

Q: (DS) Did he bring the shotgun in with him?

A: Uh-huh. It was unloaded; didn't have no shells in it.

Q: (DS) Was it?

A: Can't shoot nobody with an unloaded gun.

Q: (GS) What was Steve's job when he got into the house?

A: He was to go through everything; that's all he was good at. He was good at that. Going through jewelry boxes and stuff. Or finding hard to spot things, you know, losing stuff; like where people stash money and stuff. He was pretty fair at that but even though, he didn't find no money.

Q: (DS) You told us earlier that you-- that you wore gloves. Did you both have gloves on at this time?

A: Yeah, he did. I didn't at that time. As soon as I hung up the phone and got them all in the living room, I put the gloves on. And I think I wiped the phone off and I went out and yanked all the phone wires out of all the phones; the receiver parts, went through all those and yanked out all those.

Q: (DS) You did all that. You say Steve didn't yank any phones out?

A: He might have yanked out one, I don't know. He might have found one that I didn't, I don't know. I found two or three though I did in that house.

Q: (DS) Were all four of the people laying on the floor?

A: Uh-huh.

Q: (DS) Where at in the house?

A: In the living room.

Q: (DS) Can you tell us where in the living room?

A: In front of the couch. One right in front of the couch; coffee table separating Mrs. and Mister and the girl was behind the man and the body was up by the fireplace laying lengthways from the other ones.

Q: (DS) Okay, Glenn, at what point did you tie them up?

A: At that point as soon as I got them laid down.

Q: (GS) Did you tie all four of the people up?

A: I tied everybody.

Q: (DS) What did you tie them up with?

A: Rope, cords, anything I could find.

Q: (GS) Where did you find the rope and cords?

A: Kitchen. I asked Mrs. Douglass where there was any twine or any rope or anything before I had her lay down. She gave it to me. Is there any way I can get some water?

Q: (GS) Why don't we go ahead and continue this and I'll get you some water.

Q: (DS) Okay. While you were -- where did you end up getting the cords and stuff, did you say?

A: At the kitchen.

Q: (DS) Can you tell me what kind of cord it was and where it came from?

A: Nylon cord and I don't know where it came from in the kitchen.

Q: (DS) You say you bound all four of them?

A: Yes.

Q: (DS) Did you gag the people?

A: Yes, some of them. Yes, I did.

Q: (DS) What with, Glenn?

A: Pieces of cloth, anything I could find. Pieces of cloth, I think most all of them. I think it was all of them, pieces of cloth.

Q: (DS) Did any of the family go through the house with you?

A: Yes, I told the daughter to get up and find us all the money spots.

Q: (DS) This was before you bound her?

A: Right.

Q: (DS) Who went through the house with her? You or Steve?

A: Me. She gave us all -- she found us -- she went through the rooms, she showed up where all the money was and we had her get back in the living room and laid her down. Was trying to get in a hurry because we already took took much time.

Q: (DS) Where was Steve while you were going through the house with her?

A: In the living room.

Q: (DS) What was he doing?

A: He was looking through all the things in the living room and went into the other bedroom and looked for things. In the parent's bedroom.

Q: (DS) And the man and the woman and the boy were tied in the living room floor and the girl was with you?

A: For about fifteen minutes and then she was tied up.

Q: (DS) At any time did you assault or attempt to sexually assault the woman or the girl?

A: No, just tied them up.

Q: (DS) Okay.

A: All we wanted was the money.

Q: (DS) Did you take anything else, Glenn?

A: Just the watch.

Q: Did you take anything other than the watches? (DS)

A: All the change they had. There was one big old cup of quarters and nickles and dimes.

Q: (DS) Can you describe the watched to me?

A: Both of them were Seiko watches; blue face on one and white face on the other.

Q: (DS) Both of them men's watched or --

A: Both of them men's watches, yes. No woman's watch. Yes, there was -- no, there wasn't no woman's watch.

Q: (GS) Was there any other jewelry taken? (DS) Rings, necklaces?

A: Oh, yeah, two rings. Matching set, gold bands with red stones in them all the way around.

Q: (DS) How many stones you think?

A: Eight a piece or something like that.

Q: (DS) Okay. Where were those taken from?

A: I don't know. Steve got those. Maybe they were out of the master bedroom because they were a matched set so I would imagine they came out of the master bedroom.

Q: (DS) Back up just a little bit, Glenn, when you first went into the house or you both went into the house, where were the people in the house?

A: Mother was in the kitchen. The daughter was in the living room. The boy was in the living and the man was in the living room -- bedroom.

Q: (DS) In the bedroom? Master bedroom?

A: When he came out though was just about whenever Steve cocked it through the door.

Q: (DS) Okay, after you go through the house with the girl, what do you do then?

A: Take her back in the living room and tie her up and told Steve to go outside and turn the car around.

Q: (DS) And let me understand correctly. You've told us they are all four tied up in the floor and. . . . (End of tape two) (Beginning of tape three)

A: Gagged.

Q: (DS) Were they covered up with anything or . . .

A: Their heads.

Q: What with?

A: Shirts, whatever we could find.
Cloth.

Q: (GS) Who covered the heads?

A: Steve covered the heads.

Q: (GS) On all or part of them?

A: (Part of them and I covered part of them. I covered two and he covered two. He covered the boy and the mom and I covered the man and daughter.

Q: (DS) Okay, what did you do after you covered them up?

A: Looked through the house for about another two minutes or so. I spent too much time there so I told him to go out and turn the car around and he told me not to do anything that drastic, right, we're already in bad enough. I told him to go turn around the car and don't worry about it. I wouldn't do nothing, so he went out and started the car up and turned around and he head me shoot.

Q: (GS) What was the conversation that you had with the family? Were you talking to them?

A: Yeh. (Affirmative) I told them I was a crazy man.

Q: (GS) What were they saying to you?

A: Uh, they was just saying don't shoot us. That's it.

Q: (DS) Did you make any threats to them?

A: I said just be quiet or I'll shoot you.

Q: (DS) Did you know that the man was a preacher?

A: No, I didn't.

Q: (DS) Did anyone there tell you that he was a preacher?

A: Uh, no, they didn't tell me that.

Q: Okay, Glenn, did you make any threats to any one person?

A: No, I told them all, all the same.

Q: Okay.

A: All were in the same room when I was threatening. All in that room.

Q: (DS) Okay, after you told Glenn, excuse me, when you told Steve to go outside, did he go outside?

A: He hesitated for a few minutes, trying to calm me down because I was all spaced out. I was all fucked up on this, I done a bunch of speed in the car before we got there. Drinking whiskey and speed, they don't mix. He was trying to calm me out of it. Telling me come on, come on, lets get the fuck out of here, come on. I said just

go out and turn the car around and shut up. So he went out and he turned the car around and shut up.

Q: (DS) How long was he in the car before you went out?

A: Three or four minutes.

Q: (DS) What did you do after he went outside?

A: Told the people, I says, I'm sorry but dead men don't talk. And then I emptied out six shots.

Q: (DS) Out of what?

A: .357 magnum, 38 special wad cutter shells.

Q: Okay, and who did you shoot first?

A: The man, the body, the daughter, the mom, the man again, and I can't, I think I shot the boy twice.

Q: (DS) But you don't remember for sure?

A: I don't where I put that last shot. I was all fucked up.

Q: (DS) Okay, and then after you shot them what did you do then?

A: Ran out the door.

Q: (DS) When you ran out the door. .

A: I slowed down and stopped because of all the dogs right there.

Q: (DS) Okay, but when you ran out the door did you think that all four people were dead?

A: I didn't know. I didn't think so. I thought I just hurt them bad enough, I tied them loose enough to where they could get away, but not right away. I wasn't intending to kill them all, I just wanted to hurt them where we could get out of state for awhile. We was pretty close to the stateline, we headed straight east. I didn't know they was dead or not. I was just saying that.

Q: (DS) Okay, you ran out the door...

A: All I wanted to do was hurt them bad enough to get out of the state.

Q: (DS) You ran out the door and you slowed down because the dogs were barking.

A: Uh-uh (affirmative). There was six Doberman Pinchers, or a bunch of them anyway. I don't know how many, there was a whole bunch of them.

Q: (DS) Then what did you do?

A: That's when I hopped, I walked the rest of the way to the car, got about six foot from the door and ran out to the car. I said get the hell out of here.

Q: (DS) Who drove?

A: STEVE drove. He already had the car started and I told him that I couldn't drive.

Q: (DS) And. . .

A: I was too tired. I was like shaking like a leaf and I was all spaced out.

Q: (DS) And when you left, where did you go from there?

A: Went down the driveway and out and was on the highway before long. I know that. We was headed south.

Q: (DS) Did you know what highway that was?

A: We was on a dirt road before then. We came in from a different direction.

Q: (GS) What was the first thing you remember seeing after leaving the house?

A: The birdges. A wood bridge, a small one, real small, two foot on the sides.

Q: (DS) Was that before you got to the highway.

A: Yeah. Like a big creek or something. Right, just a rail, just a little guard rail, I wouldn't call it a bridge, little guard rails.

Q: (DS) Okay, after you got to the highway which direction did you turn?

A: We turned left. I think it was south.

Q: (DS) Okay.

A: Cause we ended up coming out of the south.

Q: (DS) Okay, where did you go from there?

A: Oklahoma City. Through Oklahoma City and we was worried about getting busted being in that car. And we went straight west across the border into Fort Smith.

Q: (DS) Straight west?

A: East. Excuse me.

Q: (DS) On what highway?

A: I think it was eighty. I sure it was eighty.

Q: (DS) Did you make any stops in Oklahoma City?

A: Nope. No stops. Straight through. We had gas.

Q: (DS) Did you make any stops between Oklahoma City and Fort Smith?

A: Rest stop. Take a piss. We stopped two or three times to do that. Not at just rest stops but just off the side of the road. And I was drinking pretty heavy. And that's against the law.

Q: (GS) What were you drinking at that time?

A: Boiler makers. Whiskey and beer, half and half. Half a can of beer and a half a can of whiskey. Canadian whiskey. Canadian Lord Calvert. Same thing I was drinking before we got there.

Q: (GS) Baking up just a moment, were you smoking cigarettes at the time?

A: Smoking cigarettes, smoking pot, shooting drugs, I was doing everything.

Q: (GS) What type of cigarette do you normally smoke?

A: Camel filter light.

Q: (GS) Do you know what STEVE normally smokes?

A: Marlboro's. But I, I ran out that night once. I had to borrow some of his to. He smokes Marlboro normally. But I was smoking his anyway. Cause I was forgetting mine in the car and smoking his in the house. I think maybe I brought one or something like that on me. I was smoking, I used to smoke Raleigh filter Kings.

Q: (GS) Do you remember. . .

A: But I forget what kind of cigarettes I had with me that night cause I don't know. I don't know. All I know is that I was smoking.

Q: (DS) What kind of beer do you usually drink, GLENN?

A: Uh, Bud, Michelog, Lowenbraw.

Q: (DS) Anything?

A: Anything that's got, anything that's good. Any thing that Anhuser Busch usually.

Q: (DS) What kind does STEVE usually drink?

A: Anything that I drink. He usually goes along. . . . I used to drink a lot of Oil Milwaukee up there in Enid. A lot of it. A case and a half a day. It took about, oh, a good two six-packs to get me fucked up on beer. That's why I was drinking whiskey. Alot of the two. Whiskey and beer both.

Q: (DS) Okay, while we're backed up here, do you recall what you were wearing that day?

A: I was wearing a red construction company baseball cap, a blue shirt, a T-shirt shirt, that said on the side of it, in that little sign right here, with two fingers pointing like that, it said I'll show you mine, no, you show me your's and I'll show you mine, or show me yours and I'll show you mine, or something like that it said on it. Had levi pants on.

Q: (GS) What type of shoes?

A: Boots. My boots, The boots that's out here.

Q: (DS) What kind of boots are those?

A: Wolverines. They stink. Don't ever buy any. Feet sweat in them too much.

Q: (DS) What color are they?

A: Black.

Q: (DS) What was STEVE wearing that night?

A: I don't have the foggiest. I think he was wearing a flannel shirt.

Q: (DS) But you don't remember.

A: I don't remember what the hell it was. Cause I know that I got rid of that blue shirt and that hat.

Q: (DS) You said that you had on a red construction company hat.

A: Hat on, right.

Q: (DS) Do you remember what it said?

A: Red Construction Company.

Q: (GS) Where did you discard your clothing?

A: Uh, Tennessee, no, New Orleans. I got to New Orleans, that baseball cap is probably still there. And, uh, uh JACK THOMPSON's trailer bunk house.

Q: (DS) Okay, you stopped two or three times between Oklahoma City and Fort Smith to use the bathroom.

A: A: No bathrooms. We just pissed on the side of the road.

Q: (DS) Okay. When you got to Fort Smith, what did you do?

A: Rented a motel.

Q: (DS) Remember the name of the motel?

A: No, but it's across from the Ford place. It was across from the Ford place. I still got the card in my wallet from the Ford place.

Q: (DS) Do you remember anything else that it was close to?

A: Uh, shopping center. A small shopping center. In fact the parking lot combined with it.

Q: (DS) If I named some motels to you do you think you could remember the name of it?

A: No.

Q: (DS) What time of day was it when you got to the motel?

A: Late.

Q: (GS) What would be your best guess as to the time?

A: I wouldn't have the foggiest, to tell you the truth. STEVE went in and rented it. I had to stay in the car because I was to fucked up. Then he helped me, it was an upstairs too, cause he had to help me upstairs too.

Q: (DS) Do you remember the number of the room?

A: Two forty-three, I don't know for sure. I think it was somewhere around there through. I was in the back, way back. It was a big motel.

Q: (DS) Okay. How long did you stay there?

A: That night. The next morning we got on the bus.

Q: (GS) Which bus did you take?

A: Greyhound.

Q: (GS) Where did you go?

A: From there to Memphis.

Q: (GS) And where was the first place you went when you got to Memphis?

A: Ramada Inn.

Q: (DS) Before we leave there, how did you get from the hotel to the bus?

A: Taxi cab.

Q: (DS) What kind of taxi cab?

A: Brown taxi. It was a brown colored taxi cab but it was called Black Taxi Cab, or something like that.

Q: (DS) What did you do with the car that you went there in?

A: Left right at the motel.

Q: (DS) Was this DEWAYNE LUCAS' car that you left there at the motel?

A: Yes, it was. That's probably how you can find out what motel it was.

Q: (DS) Okay. What time did you catch the bus?

A: Eleven o'clock in the morning. I was half way straight by that time. Eleven o'clock in the morning, I think. Somewhere around then.

Q: (GS) What type baggage were you carrying with you at that time?

A: Duffle bag. That's it.

Q: (DS) What did STEVE have with him.

A: Duffle bag. Some duffle bags that was in the back of that car in Colorado.

Q: (DS) Do you have everything that you had with you in the duffle bags?

A: Right.

Q: (DS) Where was the pistol at this time, GLENN?

A: In the duffle bag. Wrapped up in the sleeping bag. Unloaded.

Q: (DS) Where was the shotgun at this time?

A: Wrapped up in STEVE's sleeping bags, unloaded. Well, his was wrapped up, but the end of it was sticking out of the sleeping bag. Cause one of the trucks seen was the end of the barrel, one of the bus drivers did by throwing it around. That's why we didn't take an airplane. Cause on an airplane they search for weapons. In and on from top to bottom. . That's why we took a bus.

We were scared every through every town we went through. Scared that there would be another, bunch of cops waiting there for us.

Q: (DS) Okay, after you got on the bus at Fort Smith, you had bought a ticket, I believe you said to Memphis, is that right?

A: Yeah.

Q: (DS) Did the bus make any stops between Fort Smith and Memphis?

A: Lots of time.

Q: (DS) Did you ever get off the bus anywhere?

A: No.

Q: (DS) Did STEVE ever get off the bus anywhere?

A: No.

Q: (DS) So, you went directly to Memphis?

A: Right. Well, we got off the bus at one time at one place. And I ran about six blocks to get a bottle of whiskey cause I had the shakes.

Q: (DS) Do you remember where this was?

A: I don't remember what town it was. I know, I seen a liquor store as you pull right up into the bus station. So, I ran back and bought a half gallon of

whiskey. Went back to the bus. Started drinking it and got calmed down a little bit and went to the bathroom and shot some more drugs up.

Q: (DS) On the bus?

A: On the bus. By the water container is where I done it. About a thousand points. A thousand syringe needles. With one glass syringe. I didn't need help to shoot up. I shot it by myself one time. Then when STEVE shot up I shot him up. Cause I was good with a needle.

Q: (DS) Was STEVE shot us this day?

A: Yeah, I think so.

Q: (DS) Was he shot up on the fifteenth, the day you pulled the

A: Yeah, sure was. We had about six grams of cocaine, about ten grams of speed, and quarter pound of pot at that time, before we took off from Enid, which we got from a local, which I rather not say, because he is ont of the big dealers there.

Q: (DS) You say that you don't want to say?

A: Right. He is the biggest around Enid. He is one of the only ones that can get dope from California and bring it in and sell it for little bit or nothing.

Q: (DS) Does he live in Enid.

A: I'd rather not say.

Q: Okay.

A: He lives in, in the, he sells to Enid, let's put it that way.

Q: (DS) Okay, you got to your whiskey and rode the bus on to Memphis, what did you do when you got to Memphis?

A: We went across the street to get, got a motel cause we was all fucked up at the time we got there.

Q: (DS) Just across the street.

A: Just across the street.

Q: (DS) There was a motel right there?

A: Right. And then there was a bunch of cops came to that bus station and surrounded it and we thought they was after us. Which they might have been. We don't know who they was after. We was across the street, the third floor, in the Ramada Inn, looking out the window watching them do this. Two days.

Q: (DS) It was a Ramada Inn that you stayed at in Memphis?

A: Right.

Q: (DS) Right there at the bus station?

A: Right across the street, about a block down from, about a block.

Q: (DS) Do you remember what room you stayed in?

A: Third floor. I don't know what number it was. It was an end room closest to, it was the east end room closest to the road, third story. Had a read sexy looking bartender. Nothing but a hooker.

Q: (GS) What did you do while you were in Memphis?

A: Scored some drugs and stuff. We met this taxi cab driver who got a couple of hookers. Lost four hundred bucks from those hookers. And partied like a son of a bitch. Drank twenty-five Singapore slings the first night, a piece, on top of what we had.

Q: (DS) Where at?

A: At, uh, the room. And at, uh, oh, one of those topless joints. By Annie Fannie's Place, it's called the Library. The Library. You know, at Annie Fannie's we had the Singapore slings. At the Library we finished up drinking beer.

Q: (DS) What were you paying for all this with?

A: Cash.

Q: (DS) Did you you run a tab until you got ready to lave every where you went?

A: Nope.

Q: (DS) Paid for it each time you had a drink?

A: Each drink.

Q: (DS) Did you do any drinking at the club at the Ramada Inn?

A: Yeah. Singapore slings. We ran a tab there and then paid it up.

Q: (DS) Do you remember how much your tab was that night?

A: Sure don't. Sure don't. Everybody in that place knows we was all drunker than shit, though.

Q: (DS) Did you get into any hassles while you were in there?

A: Nope. None that I can remember anyway. I don't know when I'm drinking whiskey what I do. I black out. And that's what the point was there in Memphis. I was at the stage I didn't know where I was at. I don't know how I got there. I don't know how I got upstairs or nothing. All I knew was STEVE always drug me around and took care of me. That's why I like being in his company cause he would always take care of me and get me to the room instead of getting arrested.

Q: (DS) You and STEVE are brother-in-laws, right?

A: Right. Well, no, not no more.

Q: (DS) But he was married to your sister?

A: Right. They got a divorce.

Q: (GS) When did you leave Memphis?

A: Two days later. Third day we left.

Q: (GS) And how did you leave?

A: Bus. To New Orleans. We rode the bus all the way to New Orleans.

Q: (DS) You said you lost four hundred dollars to hookers there.

A: Taxi cab driver set up a couple of hookers. And they ripped us off for four hundred, we had the rest of the money stashed in the vent.

Q: (DS) In a vent? What kind of vent?

A: Vent in the room. Air duct. STEVE's good about finding hiding places. And he decided let's hide the money. Just keep out of debt.

Q: (DS) Okay, you had two hookers in the room with you?

A: Yeah.

Q: (DS) How did they rip you off, GLENN?

A: Slipped us something. In our drinks or something. Made us pass out.

Q: (DS) Where did they get the money from?

A: Out of my wallet and out of his wallet.

Q: (DS) All right. Then you, did you tell us you took a bus and left there?

A: Yeah, sure did. And then we went to New Orleans.

Q: (DS) What kind of bus did you take?

A: Continental Trailways. We switched buses, bus companies. We rode all the way down there Continental Trailways to New Orleans. Got off at New Orleans, rented a motel.

Q: (DS) Remember the name of the motel?

A: No, I don't.

Q: (DS) How long did you stay at that motel?

A: One night.

Q: (DS) Then what did you do?

A: Um, I think we stayed in New Orleans two days too, in the motel, cause we could only get that one for one because they already had it rented out for the next day to someone else. It was already booked. New Orleans is a hard placed to get a motel you have to call for reservations or put up in front where you don't have one. We rented this other motel and stayed there a night and we got on Bourbon Street and seen all the sights there. There ain't nothing to see, just a ghetto. And then the next day we headed out on Greyhound.

Q: (GS) Where did you go?

A: From there to Homa, New Orleans.

Q: (DS) Homa, Louisiana, you mean?

A: Homa, Louisiana, yeah, excuse me.

Q: (GS) What did you do in Homa?

A: Look for a job. Stayed around the motel one day. Then we came back hitchhiking. We were getting low on cash. Hitchhiked back up and that's when we seen that carnival.

Q: (GS) What carnival did you see?

A: JACK THOMPSON's show. Uh, it was, uh, New Orleans.

Q: (DS) Where is the carnival itself located?

A: Uh, I don't know, to tell you the truth. I didn't know that much about Louisiana.

Q: (DS) You told us earlier. . . .

A: It's just south of New Orleans.

Q: (DS) You told us earlier that you got rid of the pistol to somebody that picked you up while you were hitchhiking, is this time?

A: Yeah, that was the time. From Homa back to the carnival is where I got rid of the pistol.

Q: (DS) And you do not remember the man's name.

A: No, I never even asked the man's name.

Q: (GS) Do you know what type of occupation he was in?

A: Oil field. Off shore. He was a welder. And he got hurt.

Q: (DS) Do you know how he worked for?

A: Sure don't. He drove a green beat up truck he was in.

Q: (DS) Pickup truck?

A: No, it was a flat bed. You open up the door and the door falls off. Only had one hinge holding the door on it, on both sides. Try to sell it to him for a hundred. All he had was fifty he said. So, I sold it to him for fifty. It was a hot gun anyway. It was already a gun that was in the robbery and committed a crime. Even I know that ballistics could show a thirty-eight shell through a .357 couldn't tell. I wouldn't take no chances, I sold it to him.

Q: (DS) Okay, then you saw the carnival.

A: And then I went to work for the carnival. Went up there and hired out to them. Stayed in a motel. The Fiesta Motel.

Q: (DS) Was this day time, night time?

A: It was day time.

Q: (DS) You went to work for them right then?

A: Well, went there, yeah, went to work for them and he told us it was their last night there, so, told us they wasn't doing no hiring, he said come back that night if we made good help sloughing. That's when they tear it down. So they call it sloughing.

Q: (DS) Sloughing means tearing down.

A: That's what it means, tearing down, getting ready to move. They said if we made good hands there they would put us to work. So we went out there and worked like to niggers, we were slaves, they put us on.

Q: (GS) How long did you work for this carnival?

A: Week, maybe two weeks.

Q: (GS) And where did you live during this time?

A: On the show, on the grounds itself. In sleeping bags, in trucks, underneath trucks.

Q: (GS) Where was that located from where the carnival was?

A: Right on the lot. Right on the lot, right where everything was at. That's where they sleep.

Q: (GS) Was this carnival stationary while you were working for them?

A: No, they would move around all the time. I think they moved the show three days, one spot five days, the last spot was a ten day spot and we got fired on it.

Q: (DS) Why did you get fired?

A: Cause I got everybody drunk all the time. They all picked up my habits. They told me to come back next year. If I ever wanted to come back they would give me a good ride if I could get off the whiskey.

Q: (DS) What did you do for the carnival?

A: I was running the double ferris wheel. A big ride man.

Q: (DS) What did STEVE do?

A: He run the sizzler. It was like the sizzler. Yeah it was the sizzler. That's what it was, a sizzler. Same thing as a, just little thing. They are just those little rides from up to, but they are for adults.

Q: (GS) Did you do anything else that cause you to be fired?

A: Yeah, shot off a shotgun shell. Did that on a night when we was all drunk. Right in the air. Just shot it in the air. We was all fucked up. We was all drinking Johnny Walker and Canadian we drank about, about two gallons between about eight people.

Q: You mentioned to us earlier that it was a long barrel gun but it ain't no more.

A: No, that's where we sawed it off at. Right there.

Q: (DS) At the carnival?

A: At the carnical

Q: (DS) When did you saw it off?

A: One night when we was all drinking?

Q: (DS) Who sawed the gun off?

A: I did.

Q: (DS) Was it sawed off before you shot it the night you are talking about then?

A: Yes. It made a pretty good noise. Eerybody came out with their artillery in hand ready to shoot them guns. He came over, we gave, we had a bunch of twenty gauge sheels that didn't fit nothing, we gave him that and told him that was all the shells. We told him just take the cap off and popped them with a hammer.

Q: (DS) This show was named Jack Thompson's Shows, did you say?

A: Right.

Q: Was he there?

A: Yes.

Q: (DS) Did he fire you right then?

A: No. He waited until he got some more work out of us then he fired us.

Q: (DS) When was this?

A: Oh, about two days later.

Q: (DS) After he fired you what did you do?

A: Went on down the road. Started hitchhiking and that's when we went into Texas. No we got a bus there because we had the money then, that he gave us.

Q: (DS) Did you leave that day or did you stay and

A: We left that day.

Q: (DS) You didn't stay in New Orleans any longer after you got fired?

A: Nope.

Q: (GS) How much money did you have with you at that time?

A: Hundred and twenty dollars, between us. We had to buy three tickets with it.

Q: (DS) Three tickets?

A: Yeah.

Q: (DS) Why the third ticket?

A: That's where we picked up Ginger at?

Q: (GS) Where did you meet Ginger?

A: I met her at a laundromat. We was sitting there, we went to buy a pack of cigarettes and I bough some cigarettes. She was standing at the laundromat door and I was sitting in this car and I thought she looked familiar. Then she came over to the car that was parked beside and talked to somebody else. And she said don't I know you and I said yeah, I know you too don't I. And she said from Schshoni, Wyoming and I said yeah. She said I'm Ginger. I said yeah, I said do you know who I am. She said yeah, you're Skip. I got out there, I stayed with her. Went to her house. She started being my girl then. (End of tape three)

Q: (GS) Ginger was your girl?

A: She was going to be my girl. She said she wanted to get away from her boyfriend down there. I said "Well, just come on with me." That's whenever I got fired from the carnival right then because they didn't want no girl being with me. Otherwise, I would probably be still working for them.

Q: (GS) Do you remember her full name?

A: No, I don't. To tell you the truth, I didn't even remember whenever she seen me at all until she said it.

Q: (DS) Okay, you said you bought you three tickets, three bus tickets.

A: That Paul's place, Lake Charles.

Q: (DS) Okay.

A: We got on the bus there. We got a cab. We got on the bus there.

Q: (DS) You got a cab from where?

A: From the motel.

Q: (DS) You were staying at a motel at that time?

A: Yeah.

Q: (DS) I thought you said a minute ago that you -- left as soon as you got fired.

A: Yeah, well, we got fired at night; about eleven o'clock at night so we went to that motel and stayed the night and that morning we left.

Q: (DS) I see. Okay, let me ask you a question, Glenn, from the time you left Enid up to this point, have you made any phone calls back to any of your folks or anywhere back here in Oklahoma?

A: Yes, I did.

Q: (DS) Who did you call?

A: I called my parents house. My sister answered the phone. I told her it was bugged so I only talked to her about a minute.

Q: (DS) When.

A: She said they're looking for you. I said, "That's all I want to know. Good-

bye, I'll talk to you later in another state, and hung up the phone.

Q: (DS) When did you make this phone call?

A: This was in -- keep wanting to think it's Ft. Smith, but I think it's in Memphis where I called from and I called right on the way before we left. Before we got our bus.

Q: (DS) Where did you call from?

A: From Memphis, I think. Memphis.

Q: (DS) I mean where at in Memphis? From the motel?

A: Motel itself, yeah.

Q: (DS) Okay. Did you make any more phone calls?

A: No. I made one when we left Louisiana from the motel that morning. She said the phone ain't bugged. She said they're looking pretty hard; FBI and everybody's looking for you.

Q: (DS) From when motel? You're talking about the morning you left New Orleans to go to Lake Charles?

A: Right. That motel.

Q: (DS) And who did you talk to?

A: My sister again. No, my mom. She says, "I don't know what you're going to do. I don't know what you're going to do." That's all she could say. I said,

"I love you, I'll talk to you later. I've got to go. Good-bye."

Q: (DS) Did you tell her where you were going?

A: No, I didn't tell her where I was. I never told nobody at the house where I was calling from or where I was going because I didn't know myself.

Q: (DS) Did you tell them you would be back or --

A: No.

Q: (DS) You didn't tell them anything when you talked to them?

A: Just told them I loved them and that was it.

Q: Okay. You get on the bus at New Orleans to go to Lake Charles. What bus did you ride?

A: Greyhound.

Q: (DS) Tell us about that.

A: We rode all the way to Nashville. Lake Charles where we met a guy about fifty miles before we got to Lake Charles that lived in Orange County, Texas. Lived in Orange, Texas, the town.

Q: (DS) Met him on the bus?

A: Met him on the bus, yeah. He was drinking whiskey with us on the bus and

he got a little crazy and the bus driver about kicked him off.

Q: (DS) What was his name?

A: I'm not good at names, but I can show -- I can see a face, but I don't know names unless I deal with them or something. I don't know who he was still.

Q: (GS) Where did you go with him?

A: To his house. And his wife and his daughter and us at the bus station.

Q: (DS) You said he lived in Orange.

A: Yes.

Q: (DS) How did you get any farther than Lake Charles, if you just bought a ticket to Lake Charles?

A: We bought another ticket from Lake Charles to Orange.

Q: (DS) Did you?

A: Uh-huh. About a fifty mile ride, forty mile ride, something like that.

Q: (GS) What was the reason for going to Orange?

A: Because he said he could put us up for the night. Because we said we were traveling and we had to get back on the road. We stayed there two days and then he gave us a ride out of town.

Q: (DS) What did you do when you were there?

A: Just drink; sit around and bullshit.

Q: (DS) Do you know what he did for a living?

A: He worked on a ship.

Q: (DS) Where at?

A: Out of New Orleans; somewhere out of New Orleans, some kind of ship, I don't know what it is. Freighter. He was a captain.

Q: (DS) Do you --

A: Of the ship.

Q: (DS) Do you know where his house was in Orange?

A: I could find it, but I don't know where it is.

Q: (DS) You don't know where to tell us where it is?

A: No, sure don't but there was quite a few rooms in it. I can barely remember how to get to it myself.

Q: (DS) Why did you decide to leave his place?

A: Because he wanted us to leave. He give us a ride out of town.

Q: (DS) Where did you go from there?

A: Up to that place in Texas. By that park.

Q: (DS) Do you remember where this was?

A: No, I sure don't.

Q: (DS) And you and Steve and Ginger all went with him from his house in his car --

A: Just a little Datsun pickup, yes.

Q: (DS) In his Datsun pickup?

A: Uh-huh.

Q: (DS) And what was the conversation then the reason you got out?

A: That we had to leave?

Q: (DS) No, that you got out of his truck. You said you got out of the car.

A: Well, that's as far as he was going to take us. He was going to a gas station to get some tires fixed or something. Lennie was his name.

Q: (DS) Lennie?

A: Lennie.

Q: (GS) Where did he let you out?

A: On the side of the road, close to a park, that's all I know.

Q: (GS) Where did you go?

A: Across the street to the park.

Q: (DS) How far west on I-10 did you go?

A: All the way in to New Mexico.

Q: (DS) Did you make any stops from the time you left there until you got to New Mexico?

A: Gas and stuff, that was it. We went straight through. Texas all the way to California. Non-stop.

Q: (GS) How did you pay for your gas?

A: Cash. Well, not all the way to Nevada.

Q: (DS) What time of the day did you leave Texas?

A: Evening time.

Q: (DS) Did you stop and spend the night any where?

A: No. Drove all night long. Tired us out. Came that morning, I wake up and I was driving.

Q: (DS) What kind of plates did the car have on it?

A: Had Texas plates on it. We switched them to Alabama plates. From Alabama plates to California plates.

Q: (DS) When did you change plates?

A: In Texas shortly -- that night. We left in the evening, about seven o'clock at his place and it was about eleven o'clock before we changed plates.

Q: (GS) Did you keep the Texas plate?

A: Yeah. No, we threw them away.

Q: (DS) Whereabouts?

A: At a rest stop. Where at, I don't know.

Q: (DS) About what date --

A: But it wasn't in Texas. I don't know what day it was. I wasn't keeping track of days.

Q: (GS) Do you know what day of the week it was?

A: I don't know what day of the week -- oh, Friday was payday.

Q: (DS) Was it a Friday?

A: It was Friday, I know that. I am pretty sure it was Friday. Might have been a Saturday or Sunday. I don't know for sure what approximate date it was on.

Q: (DS) Okay. After you went through Texas and got into New Mexico, where did you spend the night?

A: We didn't. We drove on.

Q: (GS) Where did you drive on to?

A: Heading towards Las Vegas. Stayed the night in Las Vegas.

Q: (GS) Do you know which motel?

A: No, we gambled all night. The next morning was day light and we went on North, towards Reno, but we've never been as far as Reno. We was heading on our way to Reno. We didn't make it towards Reno, we cut off over into California. Was getting low on cash again. Headed down south from there; I don't know what highway we was on -- we was on 357 or something like that. I don't know what highway that was and we stopped and I used that Gulf credit card one time. We got over to Barstow and there was no place to use Gulf so we started using that Visa there and we headed north into California, my hometown, and seen my old house and headed on north. Let's see -- we stayed in a motel, no, we didn't. We went on north and started cutting over west to Nevada. We got into Reno. We stayed the night there in Reno I think. I don't know where at and we gambled that night, the next day, lost our money, most of it. Had three or four hundred dollars left. I gave some money to Steve. I kept the rest. I knew he could handle money. We made it on into Battle Mountain and then I bought a bunch of whiskey and we partied for three days there, drinking whiskey and stuff and we left and headed into Utah. Stayed in Utah, Salt Lake, spent a couple of nights in Provo, couple, three nights. Three nights, I believe it was and then we went into Wyoming. Stayed the night in Rock Springs. The next day We went to Baggs

and that's where we got Russell at. Right out south of Baggs that night.

Q: (GS) If you would, describe your activities while you were in Baggs.

A: Went over to see some friends I had.

Q: (GS) Who were the friends?

A: The friends -- weren't even home. They were Rosyan and Johnny.

Q: (GS) What's their last name?

A: I don't know. I know they are not married. They lived together for eight years, but they're not married. And then I went over to see Linda Crowdad and that's where my old lady and Linda got together and I guess that's where they decided to turn me in. Then I was in a bar and found out what they were going to do and busted her glasses went for my gun; couldn't find no gun; cops found me I did a chow.

Q: (GS) What were you going to do with the gun?

A: I don't know what I was going to do it. I was just going to take it and head south; get out of here. Head back west.

Q: (DS) What kind of gun was this?

A: Seven millimeter rifle.

Q: (DS) Okay. In Baggs, you said you busted Ginger's glasses. Then what did you do?

A: Left.

Q: (DS) Left the bar.

A: Left the bar.

Q: (DS) Where did you go from there?

A: Went back to find the gun; couldn't find the gun. The cops seen me so I took off like a bat out of hell. I lost them.

Q: (GS) What were you driving at that time?

A: A 280-2

Q: (DS) What kind of plates did you have on it at that time?

A: California.

Q: (DS) Where did you get them?

A: Stole them off the car that was abandoned on the road, a Chevy Vega Station Wagen. Had the windows all broke in on it, but the plates were still good on it. I looked at the plates.

Q: (DS) What do you mean they were still good?

A: They still had the time left on it before it expired. It ran through December.

Q: (DS) Okay. You said the cops got after you. What happened there?

A: Pardon?

Q: (DS) You said the cops got after you in Baggs. What happened there?

A: I lost them. I went out of Baggs and went south and lost them. I high-speed chase.

Q: (DS) Can you tell us how you lost them?

A: We was going straight down the highway south towards Craig, Colorado, and I got up to a speed of 135 and left them behind me. I slowed down long enough for me to go into a power slide and turned back around to 180 and turned back around and went and passed him up. He was going the other way and I was going this way. He probably thought I was regular traffic. And I cut off on this other road --

Q: (DS) You were going back towards Baggs at that time?

A: Right. And then I cut off on this other side road where I knew where a oil field was. Went down that road a few miles, pulled off on this other road, killed our lights and everything, backed up, got turned around and whenever I seen him go by and seen the lights go out of sight, I went on back out to the highway and headed south again. That's where we found that guy's house and we turned off at his house just to get off on another road. Didn't know where we was at.

Q: (DS) Did you drive up to his house?

A: Drove as much as we could until the snow stopped us. Got stuck in the snow.

Q: (DS) Got stuck in the snow?

A: Uh-huh.

Q: (DS) How far from his house?

A: Hundred yards.

Q: (DS) Okay. You were arrested and taken to jail there in Craig, Colorado. Is that correct.

A: Correct.

Q: (DS) How long was that before we came up there?

A: From that morning to that evening. And we were extradited that night up there.

Q: (DS) Okay. Glenn, is there anything else you want to say to us?

A: Yes, there is. Out of all this here, I want the death sentence. And I want an injection as soon as possible. After -- I would like to have a little bit of time to see my parents and my nephew and then I'm ready to be executed, but this shouldn't be on Steve's part because Steve can't kill nobody because he don't have no guts to do nothing. All this doing was my brain; none of his. He just went along with the program because I think he was scared of me. That's all I have to say.

Q: (DS) Okay. Since you say that's all you have to say, let's end this conversation interview with Glenn Burton Ake. This interview began at 9:05 p.m., on Friday, the 23rd day of November, 1979, and will end at 11:35 p.m., on the same day. The same three people are present as at the beginning.

I have read this statement consisting of 44 pages, and I certify that the facts contained therein are true and correct. I further certify that I have made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

s/Glen Burton Ake
GLEN BURTON AKE

WITNESS: s/D.L. Stedman

WITNESS: s/Greg D. Shields

Subscribed and sworn to before me, Carol Nichols, a Notary Public, this 26th day of November, 1979.

s/Carol Nichols
Notary Public

My commission expires: 2-6-81.
(Seal)